

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Alison Renee Lee, Circuit Court Judge
R. Markley Dennis, Circuit Court Judge

VOLUME I OF IV

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHANNEN F. RICKS,

APPELLANT

APPELLATE CASE NO 2016-002158

RECORD ON APPEAL

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State's Exhibit #3 (photo); State's Exhibit #5 (photo); State's Exhibits #14 - #16 (photos); State's Exhibits #21 - #22 (photos); State's Exhibits #27 - #29 (photos); State's Exhibit #37 (photo); State's Exhibits #47 - #48 (photos); State's Exhibits #105 - #106 (photos); State's Exhibit #109 (911 call); State's Exhibit #110 (911 call); State's Exhibit #111 (911 call)

1 STATE OF SOUTH CAROLINA

2 COUNTY OF RICHLAND

COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,

5 PLAINTIFF,

6 VS.

7 CHANNEN RICKS,

8 DEFENDANT.

TRANSCRIPT

OF

RECORD

2016-GS-40-2836

9
10 August 1st - 3rd, 2016
11 Columbia, South Carolina
12

13 B E F O R E :

14 THE HONORABLE ALISON RENEE LEE, Judge.

15 A P P E A R A N C E S :

16 APRIL SAMPSON and JUSTIN WILLIAMS
17 ASSISTANT SOLICITORS
18 Attorneys for the State

19 AMY ZMROCZEK
20 ESQ.
21 Attorney for the Defendant

22 BONNIE KELLY
23 Circuit Court Reporter
24

25 Transcribed by Pamela E. Green, Circuit Court Reporter

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P R O C E E D I N G S

(WHEREUPON, a map was marked as Defendant's Exhibit No. 1. A photograph was marked as Defendant's Exhibit No. 2. A receipt was marked as Defendant's Exhibit No. 3. A CD was marked as Defendant's Exhibit No. 4. Defendant's Exhibit Nos. 1, 2, and 4 were received into evidence and Defendant's Exhibit No. 3 was for identification purposes only at this time.)

THE COURT: We're here on the State versus Channen Franks Ricks. It's a true billed indictment of 2016-GS-40-02836. The State's represented by April, April Sampson and Justin Williams, and the defense is represented by Amy Zmroczek. It's a true billed indictment for murder.

We are here on a motion filed by the defense of -- for a hearing under the Protection of Persons & Property Act to determine whether or not Mr. Ricks should be immune from prosecution.

Is there anything we, we need to take up before we begin?

SOLICITOR SAMPSON: Your Honor, the only thing the State would have, at this point, is there are some stipulations which Your Honor, I believe, has the original copy that the defense has stated they've agreed to terms of not needing custodian of records for certain things to be

Derek Rhinehart - Direct examination
By Ms. Zmroczek

1 authentic and admissible and some other stipulations of
2 fact. I believe that both parties have agreed to those and
3 both myself and Ms. Zmroczek have signed them.

4 THE COURT: Do you have another copy of that?

5 SOLICITOR SAMPSON: I have -- you have the original. I
6 have other copies and she has---

7 MS. ZMROCZEK: I'll give her my copy for the Court,
8 Your Honor.

9 SOLICITOR SAMPSON: I can have someone to go make
10 another copy.

11 THE COURT: I'm gonna have the original marked as a
12 Court's Exhibit, counsel.

13 MS. ZMROCZEK: You can have this one. I can get
14 another one, Your Honor.

15 THE COURT: Okay. Yes, ma'am.

16 (WHEREUPON, the stipulation was marked as Court's
17 Exhibit No. 1 for identification purposes only at this
18 time.)

19 THE COURT: Ms. Zmroczek, you may call your first
20 witness.

21 MS. ZMROCZEK: Thank you, Your Honor.

22 We call Derek Richburg (sic).

23 DEREK RHINEHART, being first duly
24 sworn, testified as follows:

25 THE CLERK: Thank you. Have a seat in the witness

Derek Rhinehart - Direct examination
By Ms. Zmroczek

1 stand please.

2 (Witness complies.)

3 THE CLERK: State your name for the record.

4 THE WITNESS: Derek Robert Rhinehart.

5 THE COURT: I'm sorry. I didn't understand a word of
6 that.

7 Would you please state your name again?

8 THE WITNESS: Derek Robert Rhinehart.

9 MS. ZMROCZEK: Derek Robert Rhinehart.

10 DIRECT EXAMINATION

11 BY MS. ZMROCZEK:

12 Q Mr. Rhinehart, please make sure -- I might of said
13 Richburg but I meant Rhinehart but please speak very slowly
14 and, and clearly.

15 THE COURT: And would you please spell your last name?

16 THE WITNESS: R-H-I-N-E-H-A-R-T.

17 THE COURT: Thank you.

18 Q Mr. Rhinehart, will you please tell the judge how old
19 you are?

20 A Twenty-seven.

21 Q Twenty-seven?

22 A Twenty-seven years old.

23 Q And just to get this out of the way, you have a bit --
24 a little bit of a criminal record.

25 You were arrested back in 2013?

Derek Rhinehart - Direct examination
By Ms. Zmroczek

- 1 A Yes, ma'am.
- 2 Q And what did you plead guilty to?
- 3 A PWID. Well, simple possession. It was dropped.
- 4 Q And what sentence did you receive?
- 5 A Probation, completed drug classes, and things like
- 6 that.
- 7 Q And did you complete those?
- 8 A Yes, ma'am, 12 months.
- 9 Q You're off probation?
- 10 A Yes, ma'am.
- 11 Q Okay. What's your relationship to the defendant,
- 12 Channen Ricks?
- 13 A Close friend, schoolmate I'd say.
- 14 Q And is that Mr. Ricks sitting at the defense table --
- 15 A Yes, ma'am.
- 16 Q -- in the courtroom but he identified the defendant.
- 17 Do you go by a nickname?
- 18 A Yes, ma'am, Fresh.
- 19 Q What is it?
- 20 A Fresh.
- 21 Q Okay. Is that everybody -- everybody calls you that?
- 22 A Yeah.
- 23 Q Do you remember what your phone number was in May of
- 24 2014?
- 25 A Yes, ma'am. (803)463-2197.

Derek Rhinehart - Direct examination
By Ms. Zmroczek

1 Q What we're here today for, I want to focus on May
2 24th, 2014.

3 Do you remember that day?

4 A Yeah, kind of, yeah.

5 Q Okay. Were you with Channen on that date?

6 A Yeah, about to celebrate his birthday.

7 Q About to celebrate his birthday?

8 A Yeah.

9 Q Okay. How were y'all celebrating?

10 A Just go to the club and party.

11 Q Who was driving?

12 A Channen.

13 Q Did he come and pick you up?

14 A Yes, he picked me up from home.

15 Q Where, where is your address?

16 A [REDACTED].

17 Q Where was Channen's home?

18 A I don't know the exact address.

19 Q Okay. Do you know with whom he lived?

20 A With his baby mama.

21 Q And what was her name?

22 A Kiara Pelzer.

23 Q Do you know---

24 THE COURT REPORTER: I'm sorry. Give me that name.

25 THE WITNESS: Kiara Pelzer.

Derek Rhinehart - Direct examination
By Ms. Zmroczek

1 Q And do you know the name of the apartment complex?

2 A Richland Village.

3 Q Richland Village.

4 Okay. What time did, did he pick you up on May 24th,
5 2014?

6 A I say about 10:00 something. Before 11:00.

7 Q Before 11:00.

8 Was there anyone else with you?

9 A Yeah, another friend of mine.

10 Q What was his name?

11 A Arthur Robinson.

12 Q Okay. He go by a nickname?

13 A Dre.

14 Q Okay.

15 THE COURT REPORTER: I'm sorry?

16 THE WITNESS: Dre.

17 THE COURT REPORTER: Dre?

18 THE WITNESS: Dre.

19 THE COURT REPORTER: Can you spell it?

20 THE WITNESS: D-R-E.

21 Q And you and Dre and Channen were all in the car
22 together?

23 A Yes, ma'am.

24 Q Whose car was it?

25 A Channen's mama if I'm---

Derek Rhinehart - Direct examination
By Ms. Zmroczek

- 1 Q Okay.
- 2 A ---not mistaken.
- 3 Q And he picked you both up from your apartment?
- 4 A No, from my home. I was---
- 5 Q I mean from your home. I'm sorry.
- 6 Burdock, Burdock Court?
- 7 A Yes, ma'am.
- 8 Q Burdock Circle?
- 9 A Burdock Circle.
- 10 Q Okay. Where did y'all go?
- 11 A To the Club Torch I think.
- 12 Q Did it have a -- did it also go by a different name?
- 13 A Yeah, they had numerous names. I don't -- I can't even
- 14 remember the name at that time.
- 15 Q Okay. But -- it was called Club Torch?
- 16 A Yeah, Torch, Side Pockets, something. It was one of
- 17 the two.
- 18 Q Okay. What were you -- were y'all drinking?
- 19 A Well, I was. Channen's not a drinker. He's -- never
- 20 was.
- 21 Q Okay. Did you recognize anybody at the club that
- 22 evening?
- 23 A Yeah, I -- actually about 80 percent of the club I
- 24 knew.
- 25 Q Okay. Did y'all meet up with anyone to celebrate

Derek Rhinehart - Direct examination
By Ms. Zmroczek

1 Channen's birthday?

2 A Yeah, actually we met up with a couple of fellows. We
3 all walked in together.

4 Q Who is that?

5 A Thomas Pauling's one of them and it's, it's numerous
6 other people. I can't call their names.

7 Q Okay. And you -- do you know Thomas Pauling?

8 A Yes, I do.

9 Q Were y'all all friends?

10 A All friends from school, neighborhood.

11 Q And do you know Kiara Pelzer?

12 A Yes, ma'am.

13 Q Do you know her other than being the mother of Channen
14 Ricks' child?

15 A Well, yeah, I know her from school also too.

16 Q Y'all went to school together as well?

17 A Yes, ma'am.

18 Q That evening, were, were -- was any, any animosity, any
19 animosity amongst any of the guys that were celebrating
20 Channen's birthday?

21 A No, we was gonna have a good time.

22 Q Okay. Do you know Brianna Pelzer?

23 A Yes, ma'am.

24 Q How do you know her?

25 A School also.

Derek Rhinehart - Direct examination
By Ms. Zmroczek

1 Q Okay. And how is she related to Kiara?

2 A I'm not sure.

3 Q Okay. That's fine.

4 Do you know if, and don't tell me if -- what was said,
5 but do you know if Channen and Kiara were in contact the
6 night of May 24th, 2014?

7 A You know, not, not at the time that we was at the club,
8 no, I do not.

9 Q They didn't talk at the club?

10 A Not that I know of.

11 Q Okay. Did you see Brianna or Kiara at the club?

12 A No.

13 Q Okay. You already stated you saw Thomas Pauling?

14 A Yes.

15 Q And are you, are you familiar with Travis Tucker?

16 A Yes, went to school with him also.

17 Q You went to school with Travis Tucker.

18 was he at the club?

19 A Yes.

20 Q Okay. And y'all were all hanging out together?

21 A We all walked in together.

22 Q What time did you leave?

23 A I know I was home before five o'clock. I can't, I
24 can't say exactly what time we left.

25 Q Before 5:00?

Derek Rhinehart - Direct examination
By Ms. Zmroczek

1 A I was home before 5:00.

2 Q who took you home?

3 A Channen.

4 Q Okay. Was Dre or Arthur Robinson with you at that
5 time?

6 A No, he left with his baby mother.

7 Q Okay. So, he had left?

8 So, it was just the two of you?

9 A Yeah, it's just us two.

10 Q Whose idea was it to go home?

11 A Well, it was -- the night was -- it was almost over
12 with. So, about that time to go in.

13 Q Did you know where he was going when he dropped you
14 off?

15 A No, actually I wanted to keep partying but he say he
16 was going home.

17 Q He said he was going home and what did that mean to
18 you?

19 A The night was over with. Fixing to go to sleep.

20 Q When I mean, when I meant he's going home, where did
21 you expect him to be going?

22 A Oh, to, to his house in Richland Village.

23 Q Okay. To Richland Village.

24 When's the next time you spoke to Channen after he
25 dropped you off?

Derek Rhinehart - Direct examination
By Ms. Zmroczek

1 A It had, it had to be the next day, next morning.

2 Q Do you remember if you called him or texted him?

3 A Actually it was a lot of commotion going on. I tried
4 to get in touch with him a lot of ways. I think I talked to
5 him on the phone.

6 Q Did y'all have plans?

7 A Again, we was suppose to cause we had friends who was
8 in Miami and we had -- well, his brother, they was in Myrtle
9 Beach doing a bike week weekend. After the little club
10 night, we suppose to ride out that morning and do things
11 with them but---

12 Q To meet up with your friends at Myrtle Beach?

13 A Yeah, but it never made it to that.

14 Q Okay. Now, do you recall, if you recall, recall how --
15 don't tell me what he said but do you recall how Channen
16 sounded on the phone when you spoke to him that morning?

17 A Just, just frustrated. He didn't, didn't want to talk
18 about a lot.

19 Q So, do -- you never talked to him about what happened
20 after he dropped you off?

21 A No.

22 Q Please answer, answer any questions the Government may
23 have for you.

24 THE COURT: Any cross?

25 SOLICITOR WILLIAMS: Yes, Your Honor. Briefly.

Derek Rhinehart - Cross-examination
By Solicitor Williams

1 CROSS-EXAMINATION

2 BY SOLICITOR WILLIAMS:

3 Q Mr. Rhinehart, you didn't see the lease at Richland
4 village, did you?

5 A Oh, the lease?

6 Q So, you don't know whether or not Channen Ricks was on
7 the lease at Richland village?

8 A No, I'm not sure.

9 Q Right.

10 You just believed that he lived there, right?

11 A I know for sure he lived there. We picked him up from
12 there everyday, dropped him off there every night.

13 Q Right.

14 But you didn't know -- you don't -- but you hadn't seen
15 the lease?

16 A No, I haven't seen no lease.

17 Q All right. So, you don't know if his name (sic) on it
18 or not, right?

19 A I know he has a key though.

20 Q Okay. But I just want to be clear about the lease.

21 You didn't see his name on the lease?

22 A I don't know.

23 Q Is that a no?

24 A No, I haven't seen no lease.

25 Q Okay. All right. Thank you.

Derek Rhinehart - Cross-examination
By Solicitor Williams

1 You didn't see any of the texts that Channen was
2 sending that night, right?

3 A No, I haven't seen no text.

4 Q You don't know anything about it?

5 A No.

6 Q And Channen didn't tell you he was going back to
7 Richland Village?

8 A Yeah, he saying he was going home.

9 Q Did he tell you he was going to Richland Village?

10 A Yes, that's his home.

11 Q I want to be very clear in my questions.

12 He told you he was going home, correct?

13 A Yeah.

14 Q Okay. He didn't tell you he was going to Richland
15 Village though?

16 A Richland Village is his home. That's the only home I
17 know of.

18 Q I understand that, sir.

19 But he told you he was going home, right?

20 A Yes, sir.

21 Q But he didn't tell you the specific words Richland
22 Village?

23 A Okay. No, if --.

24 Q That's a no, right?

25 A No, he didn't say specifically Richland Village.

Derek Rhinehart - Cross-examination
By Solicitor Williams

1 Q When you went to Club Torch, you walked in with a group
2 of people, correct?

3 A Yes, sir.

4 Q It was all love, no hate, right?

5 A No hate.

6 Q No animosity at all?

7 Not from Thomas Pauling?

8 A None at all.

9 Q Not from Travis Tucker?

10 A Not at all.

11 SOLICITOR WILLIAMS: Court's indulgence, Your Honor.

12 (Pause.)

13 SOLICITOR WILLIAMS: No further questions.

14 MS. ZMROCZEK: I don't have anything further.

15 THE COURT: You may step down.

16 You may call your next witness.

17 MS. ZMROCZEK: Thank you, Your Honor.

18 Your Honor, he needs to be at work at 4:00. Can he be
19 excused.

20 THE COURT: Any objection?

21 SOLICITOR WILLIAMS: None from the State, Your Honor.

22 THE COURT: You may be excused. Thank you.

23 MS. ZMROCZEK: Xaviera Richardson.

24 XAVIERA RICHARDSON, being first duly
25 sworn, testified as follows:

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 THE CLERK: Thank you. You may be seated on the stand,
2 please.

3 (Witness complies.)

4 THE CLERK: State your name for the record.

5 THE WITNESS: Xaviera Richardson.

6 THE COURT: Would you pull yourself a little bit closer
7 to the microphone please?

8 (Witness complies.)

9 THE COURT: Spell your first name please.

10 THE WITNESS: X-A-V-I-E-R-A.

11 DIRECT EXAMINATION

12 BY MS. ZMROCZEK:

13 Q Mr. Richardson, will you tell the judge how old you
14 are?

15 A I'm nineteen.

16 Q Nineteen?

17 A Yes, ma'am.

18 Q How old were you in May of 2014?

19 A Seventeen.

20 Q How are you related to Channen Ricks?

21 A That's my uncle. My uncle.

22 Q Okay. Where were you living in May of 2014?

23 A With my grandmother, Channen's moms.

24 THE COURT: I'm sorry. I can't hear you.

25 THE WITNESS: My grandmother. Channen's mom.

Xaviera Richardson - Direct examination
By Ms. Zmroczek

- 1 Q what was that address?
2 A [REDACTED].
3 Q where was Channen living?
4 A He was living in Richland Village with Kiara.
5 Q With Kiara?
6 A With Kiara.
7 Q Did they also have a child?
8 A Channen and Kiara?
9 Q (Nods affirmatively.)
10 A Yes, ma'am.
11 Q And what's the name of Channen and Kiara's child?
12 A Aiden R. [REDACTED].
13 Q Aiden R. [REDACTED]?
14 A Yes, ma'am.
15 Q All right. How, how do know Kiara?
16 A Through my uncle.
17 Q Do you know Brianna Pelzer?
18 A Yes, ma'am.
19 Q How do you know her?
20 A From church and through Kiara.
21 Q And how is she related to Kiara?
22 A I believe that's her cousin.
23 Q They're cousins.
24 what -- do you remember what you were doing the night
25 of May 24th, 2014?

Xaviera Richardson - Direct examination
By Ms. Zmroczek

- 1 A I was at my aunt's house until I got a text from Kiara
2 around 11:00 saying that she wanted me to baby-sit for her
3 while she went out.
- 4 Q Okay. So, you got a text from Kiara telling -- asking
5 you to come baby-sit?
- 6 A Yes, ma'am.
- 7 Q And you said it was around 11:00?
- 8 A Around eleven o'clock.
- 9 Q PM?
- 10 A Yes, ma'am, PM.
- 11 Q How did you get to the apartment?
- 12 A Kiara came and picked me up.
- 13 Q Do you recall what car she was driving?
- 14 A I think it was a kind of white kind of Honda Civic.
- 15 Q Okay. And do you remember what Kiara was wearing that
16 evening?
- 17 A I know she had on like a black dress. A black dress.
- 18 Q All right. Do you recall what Brianna was wearing?
- 19 A A white dress.
- 20 Q Do you know where they were going?
- 21 A She told me that they were going out for my uncle's
22 birthday party to the same club he was going to.
- 23 Q All right. So, to Club Torch?
- 24 A Yes, ma'am.
- 25 Q For, for Channen's birthday.

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 A Uh-huh. (Affirmative).

2 Yes, ma'am.

3 Q Okay. When did you -- so, they dropped you off when
4 they went to the club as far as you know?

5 A Yeah, they, they dropped me off and then, I mean, they
6 lingered around the house and got dressed a little bit and
7 then they left.

8 Q Okay. Then they left?

9 A Yes, ma'am.

10 Q When did you next see them?

11 A I saw them when they came back asking me did I have
12 like any money because they had debit cards. So, the club
13 charged. So, they came back and asked me did I have any
14 money and then they left again.

15 Q There was a cover charge at the club?

16 A Yes, ma'am.

17 Q Okay. Did you give them any money?

18 A No, ma'am, I didn't.

19 Q Okay. What happened?

20 Did they stay or did they leave?

21 A They left again.

22 Q Okay. When is the next time you heard from them?

23 A The next time I heard from them was when she was
24 texting me like we need to check on the kids and then---

25 Q And she who?

Xaviera Richardson - Direct examination
By Ms. Zmroczek

- 1 A Kiara --
- 2 Q Kiara?
- 3 A -- was texting me --
- 4 Q Okay.
- 5 A -- checking on the kids and I think then she returned
- 6 again. She returned a period of like three times that night
- 7 but she returned the second time, and when she returned that
- 8 time, then she spoke of two people, two gentlemen coming
- 9 over.
- 10 Q Two gentlemen coming over?
- 11 A Yes, ma'am.
- 12 Q And about what time was that?
- 13 A I can't recall correctly but I would say between the
- 14 hours of 2:00 and 3:00 --
- 15 Q Okay.
- 16 A -- kind of.
- 17 Q Did you receive any texts from Brianna's phone?
- 18 A Yes, ma'am, cause -- because Kiara phone was dead. So,
- 19 she begin to text me from Bri's phone.
- 20 Q So, she was texting you from Brianna's phone?
- 21 A Yes, ma'am.
- 22 Q How did you know it was Kiara texting me?
- 23 A She, she told me it was her.
- 24 Q Oh. When -- so, you said they came and went a couple
- 25 of times?

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 A Yes, ma'am.

2 Q When's the last time they came or when's, when's the
3 last that you remember?

4 A The last that I remember of them returning was --
5 before she returned, two guys came and I was texting her
6 like I guess your company's here or whatever. But before
7 that, I told her not to bring any company but she told me
8 they were coming anyway. So, when they got there, I told
9 her, and then, when she returned home, I left.

10 Q Do you know who those two guys was?

11 A It was Thomas and Travis.

12 Q Thomas and Travis.

13 And do you know about what time they got to the
14 apartment?

15 A I want to say around, about around about 4:00ish. A
16 little after 4:00ish but I would say 4:00.

17 Q Okay. And, and you told her that they were there and
18 asked her to come back?

19 A Yeah, I told her to hurry back.

20 Q Okay. And did you know either -- how did you know
21 Thomas and Travis?

22 A I didn't know them at all.

23 Q Were you told their names?

24 A Yeah, I was just told their names and that they were
25 coming but I didn't know them.

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 Q How were they acting when, when they got there?

2 A Thomas wasn't -- he was just really, I would say, like
3 just drunk, passed out kind of, and Travis was more -- he
4 was more like a upbeat kind of aggressor. Like he wasn't
5 really aggressive like mad but he was kind of aggressive.

6 Q He just came across as aggressive?

7 A Yeah, he came across as aggressive.

8 Q And you said that when they got -- when Kiara got back
9 to the apartment and the guys were there and you left?

10 A I left with Bri.

11 Q Tell the Court a little bit about that.

12 A Me and Bri left and went to the store to get chips from
13 the store. It was probably about like a five minute trip
14 cause we just got chips but we -- then we came back.

15 Q What happened when you and Brianna got back from the
16 store?

17 A When we came in, Thomas was laying on the floor and I
18 remember us laughing about that cause his -- like his pants
19 was down some. So, we started laughing and I took a picture
20 of it.

21 MS. ZMROCZEK: And I'm showing you, Judge, what's
22 previously been admitted as Defendant's 2.

23 Is this the picture that you took with your cell phone?

24 A Yes, ma'am.

25 Q And is this the -- the time stamp says 5:07.

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 would that be about the time you remember taking it?

2 A Yes, ma'am.

3 Q Okay.

4 A That's when I took it.

5 Q And that's how he was when you walked back into the
6 apartment from the store?

7 A Yes, ma'am.

8 Q Okay. What happened after you got back from the store?
9 Let me ask you this.

10 where was Kiara when you got back from the store?

11 A She was in the room with Travis.

12 Q In the living room or some -- in, in another room?

13 A In the bedroom.

14 Q In the bedroom with Travis?

15 A Uh-huh. (Affirmative).

16 Q What---

17 A Yes, ma'am.

18 Q Do you know where her cell phone was?

19 A It was on the couch charging.

20 Q Why did you notice her cell phone on the couch
21 charging?

22 A I notice it because it, it, it kept like ringing and
23 going off. So, that's why I noticed the cell phone.

24 Q And were you able to see who that was?

25 A Yes, ma'am.

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 Q Who was that?

2 A It was my uncle.

3 Q Okay. So, Channen was blowing up her phone for lack
4 of---

5 A Yes, he was.

6 Q ---better terms.

7 Okay. Did you ever see Channen's car that evening?

8 A Like that morning or?

9 Q I mean -- sorry. That morning.

10 A Oh, no, you're fine. I, I kind of looked out the
11 window and I, I think I seen it, yes, ma'am.

12 Q So now we're talking the morning of May 25th. So,
13 you've gotten back from the store. You've already taken the
14 picture. Kiara and Travis are in the bedroom.

15 where are the children?

16 A The children were in the second bedroom, bedroom across
17 from her.

18 Q Okay. And they -- were they asleep?

19 A Yes, ma'am, they were.

20 Q Okay. And so, you -- which window did you see
21 Channen's car?

22 A I think the living room window when I was -- we was
23 cutting everything off going to sleep. I think the living
24 room window, yes, ma'am.

25 Q And what, if anything, did you say after you saw his

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 car?

2 A I didn't say -- I just said oh, they're -- Bri, there's
3 my uncle.

4 Q And so, you told Bri that Channen was there?

5 A Yeah, I told her.

6 Q And what did, what did you and Bri do at that point?

7 A We continued to go to sleep -- to go to bed like. We
8 didn't take any---

9 Q Did you go to sleep in the living room, living room or
10 where did y'all---

11 A Where the kids were in the second bedroom.

12 Q In the second bedroom.

13 What -- do you know if your uncle had a key to the
14 apartment?

15 A Yes, ma'am, he had a key.

16 Q Okay.

17 A He let me in multiple times.

18 Q Okay. What is the next thing you remember after seeing
19 his car and going into the room?

20 A I don't really recall that much of the incident because
21 I was -- when, when we were in the room, we kind of like
22 closed the door and separate ourself from the situation but
23 I just recall like a lot of -- like arguing. I recall
24 knocks on the door and arguing and then Kiara coming out of
25 the room naked.

Xaviera Richardson - Direct examination
By MS. Zmroczek

- 1 Q Kiara came out of the room naked?
- 2 A Out of the bedroom naked.
- 3 Q Okay. And how, how, how quickly was this developing?
- 4 A I want to say fast but more on the fast side. Like it
- 5 was -- it didn't happen slowly. It happened quick.
- 6 Q Okay. So, there wasn't a lot of like arguing?
- 7 It was kind of -- it escalated quickly?
- 8 A Yeah.
- 9 Q Okay.
- 10 A Yes, ma'am.
- 11 Q So, how did you know that Kiara came out of the bedroom
- 12 naked?
- 13 A Because, when I opened the door the first time, they
- 14 was, they was arguing. I seen her myself.
- 15 Q Okay. And what's the next thing you remember?
- 16 A I remember seeing Travis pacing back and forth with a
- 17 gun in his hand.
- 18 Q Pacing -- I'm sorry?
- 19 A He was pacing back and forth with a gun.
- 20 Q With a gun?
- 21 A Yes, ma'am, Travis.
- 22 Q And that was Travis?
- 23 A Travis.
- 24 Q Okay. And where was he pacing back and forth?
- 25 A He was kind of like, kind of like in her hallway area.

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 She doesn't have a big hallway but it was kind of like in
2 the cubical kind of hallway.

3 Q Okay. So, the apartment for, for, cause the Judge
4 hasn't been there, the door is kind of on the side, right?

5 A Uh-huh. (Affirmative).

6 Q And then it opens into the living room?

7 A Uh-huh. (Affirmative).

8 Q And there's a, a -- the kitchen is over the first kind
9 of area, right?

10 A Uh-huh. (Affirmative).

11 Q And then there is a tiny little hallway and bedroom one
12 and bedroom two, correct?

13 A Yes, ma'am.

14 Q Okay. And so, bedroom one is in the back and bedroom
15 two is here?

16 A Uh-huh. (Affirmative).

17 Q And this is where y'all were?

18 A Yes, ma'am, Bri and---

19 Q You and the kids?

20 A Yes, ma'am.

21 Q And then -- but you saw Travis pacing in the living
22 room with his gun?

23 A Yes, ma'am, it was kind of like from the little hallway
24 area to the living room---

25 Q Okay.

Xaviera Richardson - Direct examination
By MS. Zmroczek

1 A ---like back and forth.

2 Q Oh, yeah, in the hallway area. Sorry.

3 A Uh-huh. (Affirmative).

4 Q I didn't want to mistake that.

5 What do you remember next?

6 A Only I remember is when I saw him with the gun out. I
7 asked him -- I was like what you doing and stuff like that
8 and he didn't respond to me. And Kiara was just standing
9 there like looking into the living room. And I didn't step
10 out cause I was just still in the room. I was in the
11 doorway.

12 Q Now, had Channen got there at this point?

13 Had he---

14 A Yeah.

15 Q Was he inside yet?

16 A No, ma'am, I sort of recalling knocking.

17 Q Okay. So, this is when he was knocking?

18 A Yes, ma'am.

19 Q Okay. And then, and then that's when you went to the
20 room and shut the door?

21 A Yeah.

22 Q And what happened next?

23 A I don't -- after that, I just heard like a lot of like
24 yelling and crying and arguing and tussling. That's all I
25 really heard cause --.

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 Q Did you ever hear a gunshot go off in the house?

2 A Yes, ma'am, I heard it.

3 Q And you heard the gunshot?

4 A I heard it.

5 Q And do you know who shot that gun?

6 A No, ma'am.

7 Q Okay. After -- what happened after the gunshot went
8 off?

9 A After the gunshot went off, I just recall like Kiara,
10 Kiara and my uncle left the room but I can hear her telling
11 him like hey, like just let's go home. You know, like just
12 go home. So -- and then she was telling him to go home.
13 And then she came again and told us that we was leaving.

14 Q That you were leaving?

15 A Yes, ma'am, that was after the gunshot like.

16 Q Okay. After the gunshot.

17 And when the gunshot happened, was the bedroom -- it
18 was in the second bedroom, right?

19 A In the -- you talking were we in the second bedroom or
20 when the gunshot happened?

21 Q Right.

22 Do you know where the gunshot went off?

23 A No, I don't.

24 Q Okay. Was the door opened to the second bedroom when
25 Kiara and Channen were in there?

Xaviera Richardson - Direct examination
By Ms. Zmroczek

- 1 A Yes, ma'am, they were in the bedroom.
- 2 Q Okay. So, you don't even know where the gun was shot?
- 3 A No, ma'am.
- 4 Q Okay. So, Kiara said you could leave?
- 5 A Yeah, she said that we --.
- 6 Q All right. So, what happened then?
- 7 A We just -- we got in the car and---
- 8 Q And who is we?
- 9 A Me, Kiara, Bri, and the kids.
- 10 Q The two kids.
- 11 How many kids were there?
- 12 A It was two.
- 13 Q And Aiden who you already mentioned.
- 14 A Uh-huh. (Affirmative).
- 15 Q How old was Aiden at that time?
- 16 A I can't remember --
- 17 Q About three years?
- 18 A -- but -- right. Yeah, he was about---
- 19 Q And---
- 20 A He was really an arm baby.
- 21 Q What about the other child, Navaya P.
- 22 A I don't really remember how old she was either but --.
- 23 Q She was about this old?
- 24 A Yeah, she was young.
- 25 Q Could she walk?

Xaviera Richardson - Direct examination
By Ms. Zmroczek

- 1 A Yeah, she was in a walker.
- 2 Q Okay. And is that Channen's, Channen's biological
- 3 child?
- 4 A Aiden or---
- 5 Q No, the baby.
- 6 A --Navaya P. ?
- 7 No, ma'am, she's not.
- 8 Q Okay. So, it was you, and Kiara, Brianna, and the two
- 9 children?
- 10 A Yes, ma'am.
- 11 Q And where did you go?
- 12 A We proceeded to go get my grandmother.
- 13 Q Channen's mom?
- 14 A Channen's mom.
- 15 Q All right. who was driving?
- 16 A Kiara was.
- 17 Q And y'all drove to --?
- 18 A My grandmother's house.
- 19 Q which is where you lived?
- 20 A Channen's mom. Yes, ma'am.
- 21 Q Okay. And that address again was?
- 22 A [REDACTED].
- 23 Q [REDACTED].
- 24 A Yes, ma'am.
- 25 Q About how long does it usually take to get there?

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 A I would say, from Kiara's house to my grandmother's
2 house, it took between -- you could say between ten to
3 twelve minutes.

4 Q Okay. How long did it take that night?

5 A I would say it took a little longer cause she was
6 driving kind of crazy --

7 Q Okay.

8 A -- and I kept telling her to stop the car and pull
9 over.

10 Q Do you recall what she had on?

11 A I don't recall specifically---

12 Q Did she put something on or was she still naked?

13 A Yeah, she had a towel around her at first.

14 Q Okay.

15 A And then I think she took it off and I don't know
16 whether she put pants and a shirt on but I know it was
17 something quick that she got just really quick.

18 Q She had something on?

19 A Yeah, she had something on.

20 Q Okay. You went to your aunt's house, Channen's mom's
21 house?

22 A My grandmother.

23 Q I mean grandmother. Sorry.

24 A Yes, ma'am.

25 Q And what happened after you got to that -- the house?

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 A After we just -- we pulled up into the driveway and my
2 grandma came out and she was feeling kind of bad. And we
3 just actually drove back and my grandmama telling her to
4 drive better too cause she was still driving kind of
5 reckless.

6 Q Okay. So, she -- your grandmother, your grandmother,
7 Channen's mom, got in the car with you and y'all went back
8 to Richland Village?

9 A Yes, ma'am.

10 Q Okay. She was driving crazy still?

11 A She was still kind of driving crazy.

12 Q Okay. After you left, Kiara said you were leaving, did
13 you see anything else?

14 A No, I didn't see anything.

15 Q And did you hear anything else?

16 A I heard gunshots but I was -- didn't see it. Didn't
17 see.

18 Q And those are different than the gunshots that you
19 heard in the apartment?

20 A I can't really -- I don't really recall.

21 Q You can't remember?

22 A I know I just heard them, you know, sounds. I heard
23 sounds.

24 Q Okay. Did you ever see your uncle after -- when you
25 got back?

Xaviera Richardson - Direct examination
By Ms. Zmroczek

1 A No, ma'am.

2 Q Did you ever see Travis or Thomas?

3 A No, ma'am.

4 Q Okay. What did you learn when you got back?

5 A When I was -- when I came back, they gave me Aiden but
6 I know that my grandmother came back and told me that Thomas
7 was deceased.

8 Q Okay. And what do you know about Travis and Kiara's
9 relationship after that event?

10 A I came to like figure out that they were still
11 communicating. They were still communicating.

12 Q Please answer any questions the State may have.

13 A Yes, ma'am.

14 (WHEREUPON, a statement was marked as State's Exhibit
15 No. 1. Four photographs were marked as State's Exhibit Nos.
16 2 through 5. All of the above exhibits were for
17 identification purposes only at this time.)

18 CROSS-EXAMINATION

19 BY SOLICITOR WILLIAMS:

20 Q Mr. Richardson, you don't live at [REDACTED]
21 Richland Village, do you?

22 A No, I do not.

23 Q You have no authority over that apartment, do you?

24 A No, I do not.

25 Q Kiara Pelzer lives at [REDACTED].

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 Isn't that true?

2 A Yes, sir, along with my uncle.

3 Q And isn't it also true that Kiara Pelzer called you to
4 come baby-sit your cousin, correct?

5 A Uh-huh. (Affirmative).

6 Q Your uncle's child?

7 A Yes, sir.

8 Q He did not call you to come baby-sit at which you are
9 alleging is his house?

10 A Uh-huh. (Affirmative).

11 THE COURT: I'm sorry?

12 THE WITNESS: Yes, he, he did not call me. She did.

13 Q All right. He made no contact with you that night
14 regarding what you are stating is his household, correct?

15 A Yes, sir.

16 Q Okay. And you never contacted him about what I think
17 you may consider is questionable conduct at his household?

18 Did you -- you didn't contact him and tell him that
19 Travis Tucker was there, did you?

20 A No, sir.

21 Q You didn't contact him and tell him that Thomas Pauling
22 was there, did you?

23 A No, sir.

24 Q Okay. Despite the fact that you took a picture of
25 Thomas Pauling, right?

XAVIERA RICHARDSON - Cross-examination
By Solicitor Williams

1 A Yeah.

2 Q You didn't -- you never, at anytime, sent him that
3 picture, did you?

4 A No.

5 Q Never communicated that two men were in what you call
6 his house?

7 A That was not my place.

8 Q That's a no, right, never contacted him?

9 A No.

10 Q But you say he lived there, right?

11 A He did.

12 Q You never saw the lease for [REDACTED], did
13 you?

14 A No, but I knew he paid bills.

15 Q But you didn't see him on the lease then, did you?

16 A No, I didn't.

17 Q You had an opportunity to give a statement regarding
18 this incident, didn't you?

19 A Uh-huh. (Affirmative).

20 THE COURT REPORTER: Is that a yes?

21 THE WITNESS: Yes. Yes.

22 THE COURT: Mr. Richardson, if you would, please answer
23 verbally yes or no instead of uh-huh and hu huh --

24 THE WITNESS: Yes, ma'am.

25 THE COURT: -- just to make sure that we all understand

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 what your answer is please.

2 THE WITNESS: Uh-huh. (Affirmative).

3 Yes, ma'am.

4 Q You had an opportunity to give a statement.

5 Is that correct?

6 A Yes, I did.

7 Q In that statement, you were given the opportunity to
8 tell what happened that night, right?

9 A Yes.

10 Q In that statement, you did not tell the investigator
11 that Travis Tucker was pacing back and forth with a gun, did
12 you?

13 A If I can recall correctly, I did.

14 SOLICITOR WILLIAMS: Your Honor, may I approach the
15 witness?

16 THE COURT: Yes.

17 Q Mr. Richardson, I'm showing you what's -- what has been
18 previously marked State Exhibit 1.

19 If you could, read over that document and show me
20 where---

21 A I know -- I read the document already but I'm pretty
22 sure that I did tell him that he had a gun because he did.

23 Q Mr. Richardson, could you show me where, in State's
24 Exhibit 1, you informed Investigator David Goth that there
25 was a gun or Travis Tucker had a gun?

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 A I don't see it but I did tell someone that he had a gun
2 because he did.

3 Q You had---

4 THE COURT: I'm, I'm sorry.

5 Mr. Richardson, you need to keep your voice up because,
6 when you talk, it falls off --

7 THE WITNESS: Yes, ma'am.

8 THE COURT: -- and I can't hear what you're saying.

9 And I need to make sure I hear everything you have to say.

10 THE WITNESS: Yes, ma'am.

11 Q You ready to proceed?

12 A Yes, sir.

13 Q You had an opportunity to read this statement before
14 you signed it, right?

15 A Yes, sir.

16 Q Your signature is on the statement, correct?

17 A Yes, sir.

18 Q But you didn't correct this statement, did you?

19 A No, sir.

20 Q And that statement does not include anything about
21 Travis Tucker pacing back and forth with a gun, does it?

22 A No, it doesn't say that in here.

23 Q You're familiar with Kiara's apartment, correct?

24 A Yes, I am.

25 Q How many bedrooms are in Kiara's apartments?

Xaviera Richardson - Cross-examination
By Solicitor Williams

- 1 Two, right?
- 2 A Two.
- 3 Q One for Kiara, right?
- 4 A Uh-huh. (Affirmative).
- 5 Yes, sir.
- 6 Q And one for the children, right?
- 7 A Yes, sir.
- 8 Q Okay. And you were in the children's room that night?
- 9 A Yes, sir.
- 10 Q Along with Brianna, right?
- 11 A Yes, sir.
- 12 Q And the two children, correct?
- 13 A Yes, sir.
- 14 Q Now, you stated that you opened the door and peeked out
- 15 and saw what was going on, right?
- 16 Right?
- 17 A Yes, sir.
- 18 Q Okay. But you didn't see a firearm, did you?
- 19 A No, sir.
- 20 Q Now, you stated that you heard a gunshot, right?
- 21 A Yes, sir.
- 22 Q Okay. But you didn't see who shot that gun, right?
- 23 A No, sir.
- 24 Q And you don't know where that gunshot came from, do
- 25 you?

Xavieria Richardson - Cross-examination
By Solicitor Williams

1 A No, sir.

2 Q Where -- you were in the bed when that gunshot -- when
3 you heard that gunshot, right?

4 A I was in the bedroom, the second one with the children
5 in it.

6 Q I'm sorry?

7 A I was in the bedroom, the second bedroom, with the
8 children.

9 Q Okay. And while you were in that bedroom, Channen and
10 Kiara were in that bedroom, right?

11 A They came in.

12 Q They, they came in before the gunshot, right?

13 A I don't recall correctly.

14 SOLICITOR WILLIAMS: Your Honor, may I approach the
15 witness again?

16 THE COURT: Yes.

17 Q Mr. Richardson, I want to show you State's Exhibit 1
18 again.

19 A Uh-huh. (Affirmative).

20 Q Just---

21 A Yes, sir.

22 Q ---because you don't remember, if you could read this
23 paragraph to refresh your memory about that night.

24 A (Witness complies.)

25 Okay.

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 Q Okay. Now, in your statement, you said you opened the
2 door and Kiara and Channen came in the room?

3 A Uh-huh. (Affirmative).

4 Yes, sir.

5 Q Right?

6 A Yes, sir.

7 Q Okay. You also said in the statement that you signed
8 that, after they came into the room, you heard a gunshot?

9 A I didn't say those words verbatim but that's, that's
10 the event process, yes.

11 Q Well, give me the words verbatim. I want you to tell
12 me what happened.

13 A The, the words that I was saying in the statement was
14 that they were in the room and then there's when I heard the
15 gunshot. But I don't remember -- I didn't remember that now
16 cause I mean that was two years ago.

17 Q I completely understand.

18 But it's in your statement, right?

19 A Yes, it is.

20 Q Okay. Just to clarify, you heard the gunshot after
21 they were in the children's room, correct?

22 A Yes.

23 Q Okay. And that gunshot happened in the children's
24 room, right?

25 A I don't know of it happening in the children's room but

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 I know I heard it after they were in the room.

2 Q Okay. You didn't see Travis or Thomas in the
3 children's room, did you?

4 A No.

5 SOLICITOR WILLIAMS: Your Honor, I beg the Court's, the
6 Court's indulgence.

7 (Pause.)

8 Q Mr. Richardson, you heard, in your statement at least,
9 you said that you heard your uncle knocking at the door?

10 A Yes, sir.

11 Q Right?

12 But he has a key to the door, right?

13 A Yes, sir.

14 Q Okay.

15 A As far as I know he had a key.

16 Q Okay. But he knocks, right?

17 A Yes, sir.

18 Q That night, at least, he knocked?

19 A Yes, sir.

20 Q Okay. You also stated, on direct examination, that you
21 peeked out the window and saw your uncle outside, right?

22 A I saw a car.

23 Q You saw his car outside?

24 A The car.

25 Q Okay. Did you think -- you thought he was outside,

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 right?

2 A I assumed.

3 Q Okay. But you didn't contact him and let him know two
4 men were in what you're saying his house, right?

5 A No.

6 Q Okay. You also heard your uncle state, that night,
7 open the door. He yelled out Kiara, open the door.

8 You put that in your statement, right?

9 A I think so. I don't know how correctly he wrote it out
10 but he might of said yes, open the door.

11 Q Would it help to review your statement to---

12 A No might.

13 Q I'm sorry?

14 A No, it doesn't help. I already know what it says.

15 Q What does it say?

16 A It doesn't. In this statement right here, it
17 doesn't---

18 Q Yes, sir.

19 A It said he said open the door.

20 Q I'm sorry?

21 A It said -- it says that he said open the door.

22 Q He asked Kiara to open the door, right?

23 A Yeah, and not his -- I don't -- it doesn't say his
24 words verbatim but I said -- it says in the statement that
25 he was telling her to open the door.

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 SOLICITOR WILLIAMS: I'm showing the witness what's
2 previously marked State's Exhibit 4.

3 Mr. Richardson, does that document look familiar to
4 you?

5 A Yes, sir.

6 Q Okay. What is that document?

7 A That is the children's bedroom.

8 Q Okay. Is that the same bedroom that you were in the
9 night of this incident?

10 A Yes, sir.

11 Q Is that picture a fair and accurate depiction of the
12 bedroom the night of the incident?

13 A Yes, sir.

14 SOLICITOR WILLIAMS: I'm showing the witness State's
15 Exhibit 2.

16 What is that a picture of, Mr. Richardson?

17 A It's the picture of her living room.

18 Q Okay. And is it in the same condition and accurate and
19 fair depiction of the living room the night of that
20 incident?

21 A Yes, sir.

22 SOLICITOR WILLIAMS: Okay. Your Honor, at this time
23 the State would move to enter State's Exhibit 1, 4, and 3
24 into evidence.

25 THE COURT: Three or two?

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 SOLICITOR WILLIAMS: I'm sorry. Two, Your Honor.

2 MS. ZMROCZEK: One, four, and two are without
3 objection, Your Honor.

4 THE COURT: They're admitted.

5 (WHEREUPON, State's Exhibit Nos. 1, 2, and 4 were
6 received into evidence at this time.)

7 SOLICITOR WILLIAMS: No further questions from the
8 State at this time, Your Honor.

9 THE COURT: Any redirect?

10 REDIRECT EXAMINATION

11 BY MS. ZMROCZEK:

12 Q Mr. Richardson, did the police ever ask you about
13 seeing a gun that night?

14 A No.

15 Q Okay.

16 A No one asked me if I'd seen a gun.

17 THE COURT REPORTER: I'm sorry?

18 THE WITNESS: No one asked me about seeing a gun.

19 Q That statement, State's Exhibit 1, did the police ask
20 you where Channen was living at the time?

21 A Yes.

22 Q And where did you tell them he was living?

23 A Kiara's.

24 Q At Kiara's apartment---

25 A Yes, ma'am.

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 Q ---at the same apartment, Richland Village, right?

2 A Yes, ma'am.

3 Q Okay. Were her children living there?

4 A Yes, ma'am, they were.

5 Q Do you know if they were on the lease?

6 A No, ma'am.

7 Q Okay.

8 A But they were his kids. So, I assumed they lived
9 there.

10 Q He showed you State's Exhibit 4 and asked you if the,
11 if that's what the room looked like.

12 A Yes, ma'am.

13 Q And you weren't -- where were you -- do you remember
14 where you were laying?

15 A I was laying -- it kind of out of the picture but I was
16 laying down here kind of on the floor.

17 Q Okay. And were you laying on anything or under
18 anything?

19 A That, that pink cover.

20 Q So, you had this pink cover over, over your body or
21 what?

22 A My body.

23 Q And where, where was your head?

24 A It was under the covers.

25 Q Okay. And he asked you if this was a, a fair and

Xaviera Richardson - Cross-examination
By Solicitor Williams

1 accurate depiction.

2 would that be including that the door was opened when
3 Channen and Kiara were in there?

4 A Yes, ma'am.

5 Q Okay.

6 A I opened the door and I came in.

7 Q You opened it.

8 Did you ever hear it shut?

9 A No, ma'am, it stayed open---

10 Q Okay.

11 A ---after I opened it.

12 Q It stayed open?

13 A After I opened it, at that time, to let them in it
14 stayed open.

15 Q Okay. Mr. Williams asked you several times, Channen
16 had no idea that these two men with -- were in his
17 apartment, did he?

18 A No, ma'am.

19 Q When he said that there were two bedrooms, right, and
20 he said one for Kiara's and one for the children.

21 who else had clothes in that bedroom?

22 A In the kid's room, it was a lot of kid's clothes. But
23 in Kiara's room, it was my uncle's clothes and hers.

24 Q Your uncle being Channen?

25 A Yes, ma'am.

Laqunda Richardson - Direct examination
By Ms. Zmroczek

1 Q Okay. No further questions. Thank you.

2 THE COURT: You may step down.

3 MS. ZMROCZEK: Your Honor, the defendant calls Laqunda
4 Richardson.

5 And, Your Honor, may this witness be excluded (sic).

6 He also -- excused. He also has to work this evening.

7 THE COURT: Any objection?

8 SOLICITOR WILLIAMS: No objection from the State, Your
9 Honor.

10 THE COURT: You may be excused. Thank you, sir.

11 LAQUندا RICHARDSON, being first
12 duly sworn, testified as follows:

13 THE CLERK: Thank you. Have a seat in the witness
14 stand.

15 (Witness complies.)

16 THE CLERK: State your name for the record.

17 THE WITNESS: Laqunda Brisman Richardson.

18 THE COURT: Would you spell your first name please?

19 THE WITNESS: L-A-Q-U-N-D-A.

20 DIRECT EXAMINATION

21 BY MS. ZMROCZEK:

22 Q Mrs. Richardson, how old are you?

23 A I'm 30.

24 Q How are you related to the defendant, Channen?

25 A He's my cousin-in-law.

Laqunda Richardson - Direct examination
By Ms. Zmroczek

- 1 Q Your cousin-in-law?
- 2 A Cousin-in-law.
- 3 Q Explain that.
- 4 A Well, my husband is his cousin.
- 5 Q Okay. And who is your husband?
- 6 A Darrell Richardson.
- 7 Q Where is your husband today?
- 8 A He's deceased.
- 9 Q What?
- 10 A He's deceased.
- 11 Q And I'm sorry I have to ask about that.
- 12 When, when did he -- when did he die?
- 13 A Almost three months ago.
- 14 Q How did he die?
- 15 A He got shot --
- 16 Q Okay.
- 17 A -- trying to protect us breaking up a fight.
- 18 Q Do you remember May 25th, 2014?
- 19 A Yes, ma'am.
- 20 Q I want to ask you -- before, before we get there, do
- 21 you remember what your husband's cell phone was on May
- 22 25th, 2014?
- 23 A He had two phones. One was a 608 number and the other
- 24 was a 369.
- 25 Q Okay. Was it 608 or a 603?

Laqunda Richardson - Direct examination
By Ms. Zmroczek

1 A 603-8998 I think.

2 Q Okay. When did you first see Channen Ricks on May
3 25th, 2014?

4 Tell the judge how you came, how you became --.

5 A Oh, well, my husband had a cleaning service and we were
6 on our way---

7 Q Okay. Let me make sure. It, it muffles. So, I don't
8 know if it's the acoustics or just make sure that she can
9 hear you real clearly.

10 Okay?

11 A Okay. My husband had a cleaning service. We were on
12 our way---

13 THE COURT: If you would, back from it just a little
14 bit. You don't have to talk right into it.

15 A We were on the way to work and we got the call from his
16 sister and his mom that we needed to try to find him, that
17 somebody had got killed.

18 Q That you needed to try to find who?

19 A Channen.

20 Q Okay.

21 A They were saying somebody had got killed. So, we sped
22 to the apartments, Richland Village, and, by the time we got
23 there, the police and everybody was already around. We
24 left. I think my husband got a call from Channen and we
25 went to meet -- to pick him up behind the Rush's on Garners

Lagunda Richardson - Direct examination
By Ms. Zmroczek

1 Ferry.

2 Q So, you picked Channen up behind the Rush's on Garners
3 Ferry?

4 A Yes, ma'am.

5 Q Who was with him?

6 A We just -- it was one of his friends.

7 Q Okay. Do you remember about what time that you picked
8 him up behind the Rush's on Garners Ferry?

9 A It was after 8:00.

10 Q In the morning?

11 A Yes, ma'am, 8:00AM.

12 Q Okay. On May 25th?

13 A Yes, ma'am.

14 Q And do you recall what his demeanor, his being
15 Mr. Channen's, demeanor?

16 A Shaking and scared. Just---

17 Q Did he say a lot to you?

18 A No, just a lot of crying.

19 Q He was crying?

20 A Yes, ma'am.

21 Q What did you do next?

22 A We went and got him a room over I think it was the
23 Masters Inn over by the air, airport and we left.

24 Q Okay. Hang on right there. I'm gonna show you what's
25 been marked as Defendant's Exhibit 3 and ask you if you

Laqunda Richardson - Direct examination
By Ms. Zmroczek

1 recognize that.

2 A Yes, ma'am.

3 Q Okay. Is it, is it a document you've seen before?

4 A It's just a receipt that I got from my husband after he
5 made the purchase for the room.

6 MS. ZMROCZEK: Okay. Your Honor, at this time we would
7 like to move Defendant's 3 into evidence.

8 THE COURT: Any objection?

9 SOLICITOR WILLIAMS: Without objection, Your Honor.

10 THE COURT: Okay. It's admitted.

11 (WHEREUPON, Defendant's Exhibit No. 3 was received into
12 evidence at this time.)

13 Q And the -- what time does it say that your cousin --
14 and it has his name and his initials on it?

15 A Yes, ma'am.

16 Q Okay. And what's his name?

17 A Darrell Richardson.

18 Q And what time was the room rented and what date?

19 A 5/25/14 at 8:58.

20 Q And what time?

21 A AM.

22 Q AM.

23 And, and that's -- did Channen's friend go with him to
24 the Masters Inn or who---

25 A No, it was just me, my husband, and, and Channen.

Laqunda Richardson - Direct examination
By Ms. Zmroczek

1 Q Okay. And so, y'all rented him a room at 8:58 in the
2 morning?

3 A Yes, ma'am.

4 Q And what time did he check out?

5 A We checked out -- we checked him out the next day. It
6 was after 11:00.

7 Q Okay. And does it say on there?

8 A Yes, ma'am, 11:07AM.

9 Q Okay. 11:07AM.

10 Now, did you go back to the hotel with your husband to
11 check him out?

12 A Yes, ma'am.

13 Q And when you got to the hotel the next day before 11:00
14 in the morning, who was at the hotel?

15 A Well, it -- later that day when we went to drop him
16 off, when we went back to take him some cigarettes and kind
17 of check on him, Kiara and Aiden was there.

18 Q Okay.

19 A They asked us if we would take Aiden. So, we took
20 Aiden back with us and he spent the night. So, the next
21 morning, when we went to check him out, it was just him and
22 Kiara.

23 Q On May 26th?

24 A Yes.

25 Q And how old was Aiden at the time?

Laqunda Richardson - Direct examination
By Ms. Zmroczek

1 Do you recall?

2 A He might of been two, three months. He was still an
3 arm baby.

4 Q A tiny little baby?

5 A Yes.

6 Q Okay. And so, when you went back to check on Channen
7 earlier on the 25th, that's when Kiara and Aiden were both
8 there?

9 A Yes.

10 Q And you took Aiden with you?

11 A Yes, me and my husband.

12 Q And then, the next morning, what do you recall?

13 A We went to---

14 Q And now this is May 26th.

15 A Yes. We went to -- we knew he had to check him out and
16 everybody -- well, his mom was begging us to, you know, talk
17 him into turning hisself in in which my husband did and --.

18 Q What do you remember seeing when you went to Masters
19 Inn that morning?

20 A Well, when we, when we went to take Aiden back the next
21 day, Kiara was in the bed and Channen was kind of just
22 pacing, smoking cigarettes, just crying, still upset.

23 Q He was still upset?

24 A Yes.

25 Q Was he angry?

Laqunda Richardson - Direct examination
By Ms. Zmroczek

1 A No, ma'am, just---

2 Q Do you know him well enough to know his emotions?

3 A Yes.

4 Q So, you picked him up.

5 What happened next?

6 A Just a lot of crying and trying to tell him that, you
7 know, the right things to do and my husband just, you know,
8 just helping him and they cried together. I'm sorry.

9 Q It's okay.

10 So, your husband convinced him to go to the Sheriff's
11 Department?

12 A Yes, ma'am.

13 Q Who took him -- you took Channen to the Sheriff's
14 Department?

15 A It was me, my husband, and Kiara.

16 Q And I understand that talking about your husband after
17 as we sit -- is that, is that why you're -- and I'm, and I'm
18 sorry. I'm sorry to have to ask you---

19 A Oh, no, this is the first time I've seen Channen since
20 all this happened. So, it's, it's just emotional but I
21 can---

22 Q So, the last time you saw him, he was in the car with
23 you, your husband, Kiara, and Aiden?

24 A Yes.

25 Q And where were y'all going?

Laqunda Richardson - Direct examination
By Ms. Zmroczek

1 A Over to turn hisself in to the police department on Two
2 Notch.

3 Q Okay. who was there when you got to the police
4 department on Two Notch?

5 A All family. Just my aunt, his mom, his sisters, aunts.
6 It was just a lot of family out there, you know, just
7 showing support.

8 Q Were there any police officers there?

9 A They came down. They weren't down originally. They
10 gave us time to, you know, say our goodbyes and then they
11 came down.

12 Q Did you do that inside or outside?

13 A Outside in the parking lot.

14 Q And then the police came outside?

15 A Yes, ma'am.

16 Q what happened next?

17 A I remember Channen giving us his phone and money and
18 his keys.

19 Q Okay.

20 A And when he gave them to me, I gave them to my husband
21 cause I was hugging him, you know, bye and everything and my
22 husband passed them off to the investigator and they took
23 them.

24 Q Did Kiara get out of the car?

25 A No, ma'am.

Laqunda Richardson - Cross-examination
By Solicitor Williams

1 Q Did Aiden get out?

2 A Yes.

3 Q Okay. Please answer any questions of the State.

4 THE COURT: Any cross?

5 SOLICITOR WILLIAMS: Yes, Your Honor. Briefly.

6 CROSS-EXAMINATION

7 BY SOLICITOR WILLIAMS:

8 Q Mrs. Richardson, I just wanted to clarify.

9 Channen gave your husband his keys?

10 A No, he gave them to me. He gave me his phone and some
11 money and his keys because we was swapping. I was giving
12 him Aiden and he had the stuff in his hand. And so, he gave
13 it to me. I gave it to my husband.

14 SOLICITOR WILLIAMS: Okay. No further questions, Your
15 Honor.

16 MS. ZMROCZEK: Have nothing further, Your Honor.

17 THE COURT: You may step down. Thank you.

18 MS. ZMROCZEK: We call Alvildia Chambers.

19 ALVILDIA CHAMBERS, being first duly
20 sworn, testified as follows:

21 THE CLERK: Thank you. Have a seat in the witness
22 stand please.

23 (Witness complies.)

24 THE CLERK: State your name for the record.

25 THE WITNESS: Alvildia Chambers.

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 THE COURT: Spell your first name please.

2 THE WITNESS: A-L-V-I-L-D-I-A.

3 DIRECT EXAMINATION

4 BY MS. ZMROCZEK:

5 Q Mrs. Chambers, you use to go by another last name?

6 A Jenkins. That was my married name.

7 Q That was your married name?

8 A Yes.

9 Q Okay. How, how are you related to Channen Ricks?

10 A I'm Channen's mother.

11 Q Do you know -- how do you know Kiara Pelzer?

12 A Through Channen dated her.

13 Q When did they start dating?

14 A In 2013.

15 Q 2013?

16 A Uh-huh. (Affirmative).

17 Yes, ma'am.

18 Q Before 2013, where did Channen live?

19 A Channen, he was at the Department of Corrections. He
20 came home in---

21 Q Before he started dating her, where did he live?

22 A Oh, he always lived with me.

23 Q With you?

24 A At [REDACTED].

25 Q Okay. And then, after he started dating her, did that

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 change?

2 A Yes.

3 Q Where, where did he live then?

4 A At Kiara's apartment.

5 Q Okay. How do you know Xaviera Richardson?

6 A Xaviera Richardson is my grandson.

7 Q Where was he living in 20 -- May, 2014?

8 A [REDACTED].

9 Q With you?

10 A Yes.

11 Q Do you know Thomas Pauling?

12 A No.

13 Q How -- what can you tell us about, about your son and
14 his growing up and where he went to school?

15 A Well, Channen was more or less a special needs person.
16 He was -- he had special classes. His IQ, he was tested at
17 80.

18 Q An 80?

19 A Yes.

20 Q Okay. Did he have a job?

21 A He was working at the Hardee's Restaurant.

22 Q At the Hardee's?

23 A Yes.

24 Q I'm sorry. You're gonna have to speak up a little bit.
25 My hearing is -- I'm terrible.

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 A He was working at Hardee's.

2 Q What did he do with the money that he was making?

3 A Well, they didn't pay him in a check. They gave him a
4 debit card and Kiara usually had the card, cause whenever
5 they borrowed money from me, I would have to tell her not to
6 give the card up, to keep the card until I get to it and get
7 him.

8 Q Okay. Where are Channen's clothes now?

9 A They were at Kiara's house.

10 Q They're still there?

11 A I assume so.

12 Q Okay. Do you recall what your phone number was in May
13 of 2014?

14 A Yes.

15 Q What was it?

16 A (803)363-1740.

17 Q Okay. Did Channen ever borrow your car?

18 A Yes.

19 Q What kind of car is it?

20 A I had a white Buick.

21 Q A white Buick?

22 A Yes.

23 Q What did -- for what reasons did Channen borrow your
24 car?

25 A When he had troubles getting to Kiara's house at night

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 or he wanted to go out with his friends or to pick up his
2 daughter. For several things he used my car for.

3 Q Did he ever use it for Kiara?

4 A Yes, he used it to take -- at one point he was having
5 to use my car to take Kiara to work, pick her up from work,
6 on the days that I did not work cause she worked in the same
7 building that I worked in. I was the head cook in the
8 building. She had doctor's appointments when she was
9 pregnant. He took her to her doctor's appointments, stayed
10 over there, brought her back. And if they needed to do
11 anything else with her not having a car at that time, I
12 agreed to let them use my car.

13 Q Okay. And you recall, you recall May 24th, 2014?

14 A Yes.

15 Q Okay. Do you recall -- how do you recall that date?

16 A Well, when I came in from work, Channen was on the
17 phone with somebody and they was asking -- telling him to
18 come on, to go out, to turnt up, it's your birthday, we
19 gonna have fun, and he agreed that okay. So, after Channen
20 got off the phone, he came and asked could he use my car. I
21 gave him the keys. He went outside, got in the car, backed
22 into Larry's truck, and---

23 Q Who's Larry?

24 who's Larry?

25 A My friend.

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 Q Okay. So, he backed into your friend's truck?

2 A Yes.

3 Q Okay.

4 A And he left.

5 Q Do you recall what he was wearing that evening?

6 A He was wearing a blue and gray Polo striped shirt, blue
7 jeans, and blue and gray Polo shoes.

8 Q What, what can you tell the Court, and I don't want to
9 go into too much detail, but what can you tell the Court
10 about what you personally know about Channen and Kiara's
11 relationship?

12 A That they were together. I mean sometimes he would
13 leave and spend the night at my house but that normally
14 asked -- just the next day she's even calling for him to
15 come back or they had a good relationship except for when
16 they got in a little heated arguments or whatever. He would
17 leave and come home to my house to spend the night.

18 Q Okay. Did you know where he was going that night?

19 A Well, when he left, I knew that he was going to the
20 club.

21 Q The club, but you---

22 A So, I think it was either Side Pocket or Torch. I
23 remember the Side Pocket was there because it use to be a
24 church next door and I went and sometime visited the church
25 next door.

Alvildia Chambers - Direct examination
By Ms. Zmroczek

- 1 Q And did, did that club change names a lot?
- 2 A Yes, it did.
- 3 Q Okay. Did you see Kiara pick up the -- did she come
- 4 and pick up Xaviera?
- 5 A No, I didn't actually see her come to pick him up but I
- 6 knew that she had come to get him because my daughter told
- 7 me. Well, I knew she had come to pick him up.
- 8 Q You knew she had come to pick him up?
- 9 A Uh-huh. (Affirmative).
- 10 Q And---
- 11 A Yes.
- 12 Q ---did you see Kiara any other time that evening?
- 13 A Well, I saw her again when she came to my house to pick
- 14 me up that morning.
- 15 Q About what time?
- 16 A It was 5:00 or so.
- 17 Q All right. How do you -- how, how, how did you know
- 18 she was coming to pick you up?
- 19 A She called me. She was screaming in the phone and
- 20 hollering. It scared me cause they woke me up out of my
- 21 sleep, and I mean she was just screaming and hollering. She
- 22 was calling Channen names. Channen, Channen, Channen, and
- 23 I'm like what about Channen. She said I'm on my way. I'm
- 24 on my way. So, I said okay. Right then I was all shaken
- 25 up because just before, you know, it was a time when they

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 woke me out my sleep to a tragedy.

2 Q Okay.

3 A So, she got to my house and I went out -- I went
4 outside and her, and Xaviera, and Bri, the two kids were in
5 the car.

6 Q What was she wearing?

7 She being---

8 A She had on a dark colored something.

9 Q Okay.

10 A A dress I would say.

11 Q Where did you sit in the vehicle?

12 A I got in the front.

13 Q Okay.

14 A Passenger side.

15 Q What did you do once you got in the car?

16 A I got in the car and I kept asking her what was going
17 on. Well, she was giggling.

18 Q And don't tell me what she said.

19 A Okay.

20 Q But you, you were asking her about what was going on?

21 A Yeah, she was just oh, Channen done got into some
22 trouble. She was just telling me he was in trouble and I'm
23 asking her how he was in trouble. And then it broke down
24 into a giggle and I was like what's going on. She was going
25 so fast till I just lost my attention with her and focused

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 myself on the road because I had to tell her to slow down.
2 She was going so fast, you know. It, it was raining. It
3 was misty raining and it was still dark outside, and I knew
4 she couldn't see the road that well. So, I was pleading for
5 her to slow down. By that time, we was turning into
6 Universal Drive.

7 Q You were turning into Universal Drive?

8 A Uh-huh. (Affirmative).

9 Q Did you make any phone calls in the car while you were
10 driving?

11 A No, I don't think I made any phone calls. I can't
12 remember if I made a phone call.

13 Q All right.

14 A I don't think so.

15 Q So, you got -- you arrived at their apartment?

16 A Excuse me?

17 Q You got to their apartment?

18 A Yes.

19 Q And you I think -- which apartment was it, apartment
20 number?

21 Do you recall?

22 A No, I don't know her apartment number.

23 Q And---

24 A But I know how to go straight there.

25 Q You know how to get there?

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 A Yeah.

2 Q You don't know the apartment number.

3 okay. And do you know if Channen had a key there?

4 A Yes.

5 Q Okay. So, once you got to the apartment, what
6 happened?

7 A When I got to the apartment---

8 Q About what time if you recall?

9 A It was like -- I would say like almost 6:00.

10 Q Between 5:00 and 6:00?

11 A Yeah. Yes.

12 Q Okay. And what did you---

13 A And I went -- upon arriving there, I saw the fire
14 truck, police, yellow tape. So, I got out of the car
15 shaking and I proceeded to walk toward where the fire truck
16 and the police were.

17 Q And what did you---

18 A And I got down there and I saw this person laying on
19 the ground. Kiara was walking behind me and she turned
20 around and went back. And I said who is that on the ground.
21 And she say I don't know.

22 Q She said I don't know?

23 A Yeah. So, I said it's the person in white short pants.
24 She says, she says that was her cousin.

25 Q She said that's who?

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 A Her cousin.

2 Q Her cousin?

3 A Uh-huh. (Affirmative).

4 Yes, ma'am.

5 Q Where did you go after seeing the body?

6 Take your time.

7 A I went, I went back to the apartment and I walked
8 inside and I started to pick up stuff because the apartment
9 was all torn up.

10 Q You say the apartment was all torn up.

11 What do you mean?

12 A Chairs was rearranged. Clothes was everywhere. You
13 know, it's just a mess inside the apartment.

14 Q Were there any windows broken?

15 A The front window was broken and I assume the back
16 bedroom window was broken because the shade was all torn
17 down from it.

18 Q The shade was torn down?

19 A Yes.

20 Q And so, what did you do while you were in the
21 apartment?

22 A I just started to pick up stuff after a minute. When I
23 heard the baby cry, I just went outside. I went back
24 outside.

25 Q Did you ever talk to your son?

Alvildia Chambers - Direct examination
By Ms. Zmroczek

- 1 A I called him.
- 2 Q Okay. what did you tell him when you called him?
- 3 When, when he -- when did you call him if you remember?
- 4 A I don't know what time it was but I called him and I
- 5 asked him where he was and he was just crying and he was
- 6 furiously crying. And he said mama, they were trying to
- 7 kill me. And I said well, you'd have to call the police and
- 8 I told him to call the police.
- 9 Q You told him to call the police?
- 10 A Yes.
- 11 Q Okay. And you said he was, he was crying?
- 12 A Yes, he was all upset and he was, he was crying.
- 13 Q And the first---
- 14 A I mean---
- 15 Q And the first thing he told you was what?
- 16 A Mama, they was, they was trying to kill me.
- 17 Q Okay. Have you ever known Channen to carry a gun?
- 18 A No, Channen is a hand on person. Channen will fight
- 19 with his hands. Each fight or something he been into always
- 20 came upon his hands. Not a gun.
- 21 Q Did he ever have a gun in your house?
- 22 A No.
- 23 Q So, to your knowledge, did he call the police?
- 24 A well, I didn't know then whether he got called or not
- 25 but, later on, I knew that he had called them.

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 Q Later on you learned that he had called?

2 A Yeah. Yes.

3 MS. ZMROCZEK: Your Honor, I believe it's in evidence
4 but Defendant's Exhibit 4 are the 9-1-1 calls. I'm not
5 gonna play them right now. Just for -- to save time but we
6 can play them later on.

7 Did you ever speak with any investigators?

8 A Well, not at the scene. I spoke with an investigator.

9 I was at home. I had left from down --.

10 Q When you were at home?

11 A Yes, the investigator came to my house.

12 Q What day was that, the same day or the next day?

13 A That was a Sunday. On the 25th.

14 Q Okay. And what's significant about the 25th of May?

15 A Excuse me?

16 Q What's significant about the 25th?

17 A It was Channen's birthday.

18 Q How old, how old was he if you know?

19 A Twenty-seven.

20 Q And you said the investigator came to your house the
21 same day?

22 A Yes.

23 Q Do you see that investigator in this courtroom?

24 A Yes, ma'am.

25 Q Can you point him out for me?

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 A This gentleman with the blue shirt on.

2 MS. ZMROCZEK: Okay. Your Honor, I'd just ask the
3 record reflect that she's pointing to Investigator Johnson.

4 Did you speak---

5 THE COURT: I'm, I'm sorry.

6 You said the blue shirt?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: They're two gentlemen in the courtroom with
9 a blue shirt on.

10 THE WITNESS: The one that's holding his jacket over
11 it.

12 THE COURT: Thank you.

13 MS. ZMROCZEK: Your Honor, I believe that's
14 Investigators Kerry Johnson. Thank you, Your Honor.

15 When you spoke with Investigator Johnson, did he --
16 what did you tell him?

17 A When he got there, he asked me did I know where Channen
18 was and I stated no.

19 Q Did you know where Channen was?

20 A No, ma'am.

21 Q Okay.

22 A Then he asked me could he search my car, and I agreed
23 to let him search the car. After searching the car, he said
24 did you know how I could get in touch with Channen and I
25 told him no. So, he went into his jacket pocket or in his

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 pocket or car, I can't remember which one, but he gave me
2 his card.

3 Q His card?

4 A Yes, and he---

5 Q Okay. How did you get your car back?

6 How was the car at your house?

7 A The -- my daughter and my friend had, had picked my car
8 up.

9 Q Where did they pick your car up?

10 A From Kenny's house.

11 Q From---

12 A From Kenny's house.

13 Q And who's Kenny?

14 A Kenny is a friend of Channen.

15 Q Okay. So, they went to, to Kenny's house to pick up
16 your car?

17 A Yes.

18 Q Okay. When did you call -- who is Darrell Richardson?

19 A Darrell's my nephew.

20 Q Okay. And did you speak to him?

21 A Yes, I spoke with Darrell and told him that something
22 had happened and I needed to find Channen.

23 Q And did you leave that to him?

24 A I left it to him.

25 Q Okay. Did you know that he found Channen?

Alvildia Chambers - Direct examination
By Ms. Zmroczek

- 1 A No, not then.
- 2 Q Okay. At that point you did not know?
- 3 A No.
- 4 Q Okay. When did you next see Channen?
- 5 A I saw -- the next time I saw Channen was at the police
6 department on Two Notch Road.
- 7 Q Okay. And let me go -- I forgot to ask you this.
8 Investigator Kerry Johnson asked to search your car.
9 Did he ask you to sign any papers or anything?
- 10 A No.
- 11 Q And did he, did he take anything from your car?
- 12 A No, he didn't take anything. Neither did he ask me to
13 sign any papers. He just gave me his card and told me, that
14 when Channen contact me or if I had gotten in contact with
15 him, have Channen to call him.
- 16 Q Okay.
- 17 A So---
- 18 Q And did you do that?
- 19 A Yes, when Channen contacted me, I gave him the number
20 to call him.
- 21 Q That was on the card?
- 22 A Yes.
- 23 Q Okay.
- 24 A Then I called him and I told him that Channen was about
25 to call him.

Alvildia Chambers - Direct examination
By Ms. Zmroczek

- 1 Q Okay. And when was that?
2 On what day?
3 A That was on that Monday.
4 Q The same day, May 25th?
5 A Yeah.
6 Q Okay.
7 A No.
8 Q Oh, the next day, May 26th?
9 A Right. Yeah.
10 Q Okay. And so, the next time you saw Channen you said
11 was at the police department?
12 A At the Sheriff's Department.
13 Q Sheriff's Department?
14 A Yes.
15 Q On Two Notch?
16 A Yes.
17 Q And that was May 26th?
18 A Yes.
19 Q And who did -- who was there?
20 A My daughter, Channen's stepsisters, Channen's daughter
21 Laqunda, Darrell. I didn't know then that Kiara was in the
22 car until my daughter saw her in the car and she told me
23 that Kiara was in the car with the baby. It was a bunch of
24 family members there.
25 Q How was Channen's demeanor then?

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 A He was so emotional. He was still crying and looking
2 like he hadn't had any rest or couldn't rest. He was just
3 --.

4 Q Looking like he had been what?

5 A He had no rest. He couldn't sleep.

6 Q He had no rest?

7 A Yeah, he was just crying.

8 Q Did he look angry?

9 A No, he was hurt.

10 Q Okay. What, if anything, did you -- do you know what
11 happened to Channen's keys and his phone and his money?

12 A Well, when Channen got out of Darrell's truck, we came
13 straight to each other. We embraced. Then he picked his
14 daughter up and he held her. And when he asked for his
15 stuff, cause Mr. Johnson said that we, that we had to leave,
16 he asked for the stuff. So, Darrell went back in the truck
17 and he got a key that was on one silver round ring. The key
18 was brown. He got a cell phone which was red in color and
19 he had some money. I don't know how much it was.

20 Q And what was that key to?

21 A That key was to Kiara's house.

22 Q Okay. Also where he was staying?

23 A Yes.

24 Q Okay. And when you -- I want to go back to just ask
25 you one question I forgot to ask you.

Alvildia Chambers - Direct examination
By Ms. Zmroczek

1 When you called Channen that morning while you were at
2 the apartment or at, at -- what did you tell him about what
3 you saw when you got there?

4 A What did I tell who?

5 Q Channen.

6 A I told him that the boy was dead.

7 Q Did he know that?

8 A No, that's when he broke down the most when he found
9 out that someone had died.

10 Q And that was before you told him to call the police?

11 A Yeah.

12 Q Okay. Please answer any questions of the Government.

13 A Yes, ma'am.

14 SOLICITOR WILLIAMS: Beg the Court's indulgence, Your
15 Honor.

16 (Pause.)

17 CROSS-EXAMINATION

18 BY SOLICITOR WILLIAMS:

19 Q Good afternoon, ma'am.

20 A Hey.

21 Q You testified that Investigator Johnson came to your
22 house looking for Channen, right?

23 A Yes, sir.

24 Q And he asked you if you knew where Channen was, right?

25 A Yes.

Alvildia Chambers - Cross-examination
By Solicitor Williams

1 Q Okay. And you told him you didn't know where he was,
2 right?

3 A Yes.

4 Q Okay. But you didn't give him Channen's cell phone
5 number, did you?

6 A No, he didn't ask me for it.

7 Q So, your testimony, your testimony is he didn't ask how
8 to contact Channen?

9 A No.

10 Q And your testimony is you didn't think it was important
11 to give it to him?

12 A I mean I was upset. How could I just -- I mean I was
13 upset. I didn't even think to even give him a number. I, I
14 was just answering whatever he had asked me.

15 Q Yes, ma'am.

16 You testified that Channen stayed with you sometime,
17 right?

18 A Yes.

19 Q But he also stayed with Kiara sometime, right?

20 A Yes.

21 Q He had some clothes at your house, right?

22 A No, Channen don't have any clothes at my house.

23 Q You said at the time he -- at the time that he was
24 dating Kiara, he had no clothes at your house?

25 A Well, you -- he, at that time, Channen didn't have

Alvildia Chambers - Cross-examination
By Solicitor Williams

1 clothes, clothes.

2 Q Okay. Could you explain that to me, ma'am?

3 A Because he had just gotten home. He didn't have but a
4 few things to wear, and what he had, they were at Kiara's
5 house.

6 Q So, your testimony is he didn't have much clothes
7 either, either way?

8 whether they were there at your house or at Kiara's
9 house, he didn't have much clothes?

10 A No, he didn't have a lot of clothes.

11 Q Okay. Now, you said -- you testified that you allowed
12 Channen to use your car sometimes, right?

13 A Yes, sir.

14 Q Okay. And you testified that you allowed him to use
15 your car to get to Kiara's house, right?

16 A Yes.

17 Q You referred to [REDACTED] the apartment in Richland Village,
18 as Kiara's house, right?

19 A Yes.

20 Q Okay. And you never went with Channen over at Richland
21 village and saw him sign a lease over there, did you?

22 A No, Kiara had been already staying in her apartment for
23 a period of time before Channen even knew she was -- before
24 her -- I mean she had already signed a lease and everything
25 to be in that apartment. She was in that apartment way

Alvildia Chambers - Redirect examination
By Ms. Zmroczek

1 before her and Channen even got together. So, he wouldn't
2 be on her lease cause it was already a signed lease.

3 SOLICITOR WILLIAMS: No further questions, ma'am.

4 THE COURT: Any redirect?

5 MS. ZMROCZEK: Just a few, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. ZMROCZEK:

8 Q He asked you if you -- he asked -- he, Mr. Williams,
9 asked you if you had given Investigator Johnson Channen's
10 cell phone and your, your response was no, he didn't ask for
11 it.

12 A He didn't ask for Channen's cell phone number.

13 Q And how many times did you encourage and tell Channen
14 to call -- Channen to call the police?

15 A Well, I had -- I talked to him that one time and I told
16 him he needed to call the police, but each time that I did
17 talk to him, I was encouraging him to please call the
18 investigator. Please call him.

19 Q And do you know if he did that?

20 A Yes, he called him.

21 Q Okay. So, at your, at your -- every time, when you
22 asked him to call the police, he called 9-1-1?

23 A He -- when he, when he first -- when I first told him
24 to call the police, he called 9-1-1. After then, after the
25 9-1-1 call, I talked to Mr. Johnson. That's when I

1 encouraged Channen to call Mr. Johnson. He really needed to
2 call him.

3 MS. ZMROCZEK: Thank you. I have no further questions
4 at this time.

5 THE COURT: Anything further?

6 SOLICITOR WILLIAMS: Nothing from the State, Your
7 Honor.

8 THE COURT: You may step down.

9 MS. ZMROCZEK: Your Honor, may we approach with respect
10 to scheduling?

11 THE COURT: Yes.

12 (WHEREUPON, a bench conference was held at this time.)

13 THE COURT: We're gonna break for the evening. We're
14 gonna come back tomorrow morning at nine o'clock. So, we
15 will start back at nine o'clock tomorrow morning. Please be
16 ready at 9:00. Thank you.

17 MS. ZMROCZEK: Thank you.

18 (WHEREUPON, phone records were marked as Defendant's
19 Exhibit No. 5. Two maps were marked as Defendant's Exhibit
20 Nos. 6 and 7. All were for identification purposes only at
21 this time.)

22

23 (WHEREUPON, Court was in recess for the evening.)

24

25

1 Tuesday, August 2nd, 2016

2
3 THE COURT: Good morning, everyone. Be seated please.
4 Good morning.

5 SOLICITOR WILLIAMS: Good morning, Your Honor.

6 THE COURT: You may call your next witness, Ms.
7 Zmroczek.

8 MS. ZMROCZEK: Yes, Your Honor. I think, I think,
9 before we get started this morning, I believe that we have
10 an issue that we have to take up before Mr. Ricks testifies
11 that we thought now would be a good time to take that up.

12 It's my understanding that the -- Justin wants to put
13 in some videos, and I can explain, I have no idea about the
14 videos. So, I can tell you they are a great point of
15 contention in this case.

16 Your Honor, I've been -- since I was retained, I've
17 been asking for these videos and they keep giving me what
18 they claim they only have, which are a few cameras with a
19 few seconds -- like a -- just 20 seconds or so or, you know,
20 30 seconds or a minute or two of video, which is obviously
21 not what I was asking for. We asked for everything.
22 Even -- the attorney before me subpoenaed all of the videos
23 but, for some reason, they were overwritten before they got
24 the judges -- Judge Hood's order.

25 The issue that I have particularly, Your Honor, is on,

1 I think Thursday or Friday of last week, they provided me
2 with a forensics request form that was apparently left out
3 of the case jacket, left out of all the discovery, not, not
4 ever turned over until last week. And, Your Honor, it
5 lists -- it's a forensics discovery request. Then it
6 lists -- the request is to obtain any video of the incident.
7 Then it lists some cameras and some times.

8 And my problem with this is, and I'll make this a Court
9 Exhibit with this, Your Honor, so you can see, they list the
10 cameras and apparently what times they gave us. But the
11 very first one, it says Camera 10, 4:16:56 to 4:18:12. And
12 what I did is I had my investigator screen shot, when you
13 put the DV (sic) in, what, what cameras and what the times
14 are that appear. So, we don't even have that first, that
15 first one.

16 Then, I understand, that they intend to put up -- a
17 witness up to explain how they -- there was a camera that
18 pointed directly at Mrs. Ricks and -- Mr. Ricks and Miss
19 Pelzer's front door but apparently, when my investigators
20 went out there, they said it was working. But then that
21 same afternoon, when their investigator went out there, they
22 said it wasn't working and then they generated all of this
23 repair documents or something.

24 So, there's been a question always in my mind as to why
25 she didn't get all the cameras and let everybody decide

1 what's relevant as opposed to letting, I guess, Investigator
2 Poole or whoever was tasked to do this, decide. And so, my
3 concern is that, by putting it in -- and actually I may make
4 these two a Court Exhibit so you can see what I'm talking
5 about.

6 My concern is that by putting in a portion of -- sorry.

7 (WHEREUPON, a forensic sheet was marked as Court's
8 Exhibit No. 2. A screen shot was marked as Court's Exhibit
9 No. 3. Both were for identification purposes only at this
10 time.)

11 MS. ZMROCZEK: And if I may hand them up, Your Honor?

12 So, my concern---

13 THE COURT: Well, hold on.

14 (Pause.)

15 THE COURT: Yes, ma'am.

16 MS. ZMROCZEK: My concern is twofold. One, that we're
17 obviously missing some Brady material. That there's
18 obviously been some sort of miscommunication.

19 If you look at the camera screens, it's very hard to
20 see the dates but I believe they have the DVD as well but --
21 I mean the times. But the times are not what is reflected
22 on the forensic review sheet.

23 We're missing Camera 10 and then the camera screen at
24 the bottom of the left-hand side shows absolutely nothing.
25 It just shows like that parking lot view. And what, what I

1 was told repeatedly is that they only gave us camera views
2 where they showed something. So, I don't know if there was
3 a problem with the download. I have no idea.

4 So, obviously, our concern, Your Honor, is that it's
5 not a complete representation of what happened that evening
6 and it's not even what they said it was on the forensic
7 list. So, that's our concern.

8 THE COURT: Yes, ma'am.

9 SOLICITOR SAMPSON: I was waiting for you to finish up.
10 I'm sorry.

11 All right. The State needs to clarify a couple of
12 things, Your Honor.

13 As you -- she has given you the exhibits. There are
14 five cameras. All of those cameras start at the same time
15 and end at the same time. They all have footage from 4:19
16 to 4:25AM. It was placed in every -- from the beginning of
17 this case what the first investigator reported, Investigator
18 Johnson, that the time is wrong. When they had daylight
19 savings time happen, they didn't go and change the clocks.
20 So, even though it says 4:20, 4:19, it should say 5:19. She
21 was provided that from the beginning.

22 When she first started asking about the videos, she has
23 the emails where I kept trying to clarify to make sure I was
24 telling her the correct information. What I have
25 consistently been told and what we have consistently

1 provided her is that Investigator Poole, who's here, was
2 sent, was sent to get video of the incident. He looked at
3 the video and downloaded five camera angles. Those are the
4 five that have been provided the entire time.

5 In preparing for this hearing, I, again, asked him to
6 clarify what happened, and he told me then well, I did a
7 forensic report. That was the first time I had heard about
8 a forensic report, and he notes, in his forensic report,
9 that one of the cameras, Camera 7, was not working.

10 I immediately had some concerns, because if I was the
11 defense, I would think that we just made that up. And so,
12 based on that, I had him provide me whatever evidence he
13 could provide to show that he made that report back in May
14 of 2014. He provided me with screen shots of his computer
15 showing when it was entered into his computer. He also gave
16 me a computer file they showed me.

17 I don't understand computer lingo, but he understood
18 it, and was able to explain how it showed when he inputted
19 the information. I provided all that to Ms. Zmroczek so she
20 could give it to her digital tech information person to see
21 if that was correct. He also provided me, when you put it
22 in the computer, you scan it into a printer usually, and he
23 provided that as well showing that he did that back in 2014.

24 That was never given to Investigator Johnson for
25 whatever reason. They can explain that one with that -- at

1 the appropriate time. I can put them up to explain that if
2 Your Honor would like. They're both here.

3 we don't have any other footage. When Ms. Zmroczek,
4 she's actually switched what everybody was told to -- at
5 least what she's just said. She said that we were told by
6 the apartment complex people that the cameras weren't
7 working and that she was told that they were. It was the
8 opposite. They told us that they were working, and based on
9 that, and based on his report saying that they weren't
10 working, we went to the people who actually repair the
11 cameras, and they provided us with a repair bill showing
12 that they went and repaired the camera in June, right after
13 this happened.

14 I provided that to her as well. I provided it as soon
15 as I knew about it. I didn't -- I couldn't have provided it
16 any sooner because I didn't know it existed.

17 As far as using---

18 THE COURT: I'm, I'm sorry. Let's go back.

19 What camera are we talking about that wasn't working?

20 SOLICITOR SAMPSON: There's a camera---

21 THE COURT: That was or was not working.

22 SOLICITOR SAMPSON: It's -- Camera 7 is the number.

23 You can't see on what she provided -- I don't know if you
24 can see on what she provided. In the top corner, each
25 camera has a number.

1 THE COURT: Right.

2 SOLICITOR SAMPSON: And Camera 7 is not on there
3 because Camera 7 wasn't working. He notes -- Camera 7 would
4 have shown the front door of Miss Pelzer's apartment but
5 that camera was not working. We have the -- I gave her the
6 repair bill from -- Parker Electronics is who provided it to
7 us.

8 what -- when she stated earlier, and speaking just now,
9 that the defense requested the, the full video of -- I don't
10 know what the defense requested. I never received that
11 request. But whatever they requested from the apartment
12 complex, we provided her with an email yesterday because,
13 again, we didn't have this information. But based on her
14 saying that it had been requested, and they hadn't turned it
15 over, we were supposed to have a motion yesterday about
16 that.

17 we had a hearing on this on Tuesday, excuse me,
18 wednesday of last week, wednesday of June 20th, July 20th in
19 front of Judge Hood where she had a motion to compel and a
20 list of things that had not been turned over. During that
21 hearing, she stated that the defense had provided the
22 apartment complex with a subpoena requesting the cameras
23 when this occurred, and that -- based on that, Judge Hood
24 ordered that they come in on Monday and explain why they had
25 not turned it over or be held in contempt of Court.

1 They showed up yesterday for that hearing. When they
2 showed up yesterday for that, they provided a copy of the
3 email that they had given to Steven Kristen, his prior
4 attorney, showing that he didn't ask for it soon enough.
5 They only keep the information for -- the videos for 30 days
6 and then they tape over them. That's pretty standard,
7 unfortunately, for most places that have video cameras.
8 They don't keep them very long.

9 So, when we first requested it back in May of 20 --
10 2014, Investigator Poole went and got what he got. We have
11 provided that to her. It starts on the ninth -- at 4:19 and
12 ends at 4:25. She is correct that, on that report, he notes
13 that something happened at 4:16 to 4:18. That footage he
14 did not download. He can explain that to you, why he did
15 it, but it's not that it -- we didn't provide it. It's not
16 that it was destroyed by us. He did not download it.

17 what we have is everything that was downloaded, which
18 has been provided to them. It, it doesn't show -- Ms.
19 Zmroczek knows what it shows. It doesn't show the crime.

20 what it shows is people moving at different times.
21 That's all it would be used for. It makes a timeline of who
22 was doing what at certain times.

23 One camera is going to show Travis Tucker running
24 through the apartment complex, and he goes from one camera
25 to another camera. One video is going to show Thomas

1 Pauling, the victim, running through the apartment complex
2 from one camera to another camera. One video is gonna show
3 Mr. Ricks going from one camera to another camera. That's
4 it and it's got the times at the bottom. It does not show
5 the crime. It never would. We don't have any video that
6 shows the crime.

7 So, as far as giving you a complete presentation of the
8 case, the video would never give a complete presentation of
9 the crime because nobody has the crime on video. It just
10 shows where people are moving from place to place in the
11 video that we, that we downloaded or that was downloaded by
12 Investigator Poole.

13 She hasn't quoted or given any law that says it's not
14 admissible. I think what she's arguing is a question of
15 credibility and we're at pretrial hearing. If this is a
16 jury case, then maybe then we do have a different problem
17 and we'd have to have a different argument to go in front of
18 a jury. But this is a pretrial hearing for Your Honor to
19 determine whether there's immunity.

20 I think to give a full presentation of this case, the
21 video is important. At least to show the times and give a
22 timeline of who was doing what at certain times, which is
23 all it's being used for.

24 THE COURT: Okay. I'm still confused about a couple of
25 things.

1 what was the video that was requested by defense
2 attorney that they indicated was not available?

3 SOLICITOR SAMPSON: I don't have that request. Only
4 she has it.

5 THE COURT: You talked about the email that they gave
6 to --.

7 SOLICITOR SAMPSON: Do you have a copy of the email,
8 Justin?

9 We gave it to her the -- actually, the apartment
10 complex managers were here yesterday and they provided it to
11 her. I didn't have it.

12 MS. ZMROCZEK: I can also provide -- I can also provide
13 a copy of the request that Mr. Kristen made as well. He had
14 Judge Hood actually sign an order ordering them to turn it
15 over.

16 THE COURT: It still doesn't tell me what video was
17 requested.

18 MS. ZMROCZEK: And I'll get to it but I -- I'll pull it
19 up, Your Honor, but it requested video from 5:00AM to
20 7:00AM. So, two hours of video from all the cameras.

21 THE COURT: Okay. And this email seems to indicate
22 that a copy of all the video was, was sent to or was given
23 to law enforcement.

24 (WHEREUPON, the emails were marked as Court's Exhibit
25 No. 4 for identification purposes only at this time.)

1 SOLICITOR SAMPSON: I can provide you proof of that,
2 Your Honor. They didn't provide law enforcement anything.
3 Law enforcement went to Richland village and you -- they
4 had -- were allowed to have access to the video. The women
5 who were there don't know how to download the videos
6 themselves. You could go there right now. I mean they
7 can't download the videos. They don't know how. So, you
8 have to send someone to download that for them.

9 THE COURT: And so, what was on the video Camera Number
10 10 for those -- it looks like about less -- a little bit
11 less than two minutes?

12 SOLICITOR SAMPSON: The, the -- where it says 4:16 to
13 4:18?

14 THE COURT: Yeah.

15 SOLICITOR SAMPSON: Investigator Poole tells me he
16 doesn't -- he's sitting right here. You can ask him
17 yourself. He tells me he does not recall specifically what
18 it said. He just remembered there was movement. He was
19 writing down the times where he saw movement. He looked at
20 it to see if it was relevant to this case, and he only
21 downloaded what was relevant to this case. He didn't see
22 movement on any other cameras. He was just writing down
23 where he saw movement. He then downloaded only what applied
24 to this case.

25 As you see from his notes, he didn't write down

1 anything about what he saw. He just wrote down the times.
2 And I've asked him several times about what that meant, and
3 he explained to me that he was writing down the times when
4 he saw movement. And then he went back and looked at that
5 to see if it was, if it was anything to do with our case.
6 He downloaded what had to do with our case. He did not
7 download that camera for that movement. He -- but he did
8 download that camera for those times.

9 THE COURT: So, what's the issue specifically?

10 You're, you're claiming, Ms. Zmroczek, that you don't
11 have all the information?

12 MS. ZMROCZEK: Correct. I mean including, you know,
13 what they wrote down that they had or saw movement, you
14 know, 4:16 to 4:18:12, and then we weren't provided that
15 video statement, and then we're provided a video statement
16 that has nothing on it.

17 So, obviously, you know, our concern is that, is that
18 an investigator is, is, you know, able to determine what he
19 believes to be relevant without giving the defense an
20 opportunity to, to even view what's on there. And they were
21 in complete custody and control of that. Like I believe
22 they said that they went and downloaded at -- the email, as,
23 as I read the email, it said was provided to them, but I
24 guess their testimony is or, or what their position now is
25 that they just went and downloaded what they thought was

1 relevant.

2 THE COURT: Well, now, according, according to this,
3 there was video from Camera 10. According to Court's
4 Exhibit No. 3, there was video on Number 10, which is what,
5 what -- which is on the second row of your screen shot.

6 So, what was on that?

7 This is, this is Number 10.

8 MS. ZMROCZEK: And that's Camera 10, and that's the one
9 that shows absolutely nothing. But when -- the time that's
10 indicated is not what's provided but that -- and I believe
11 that Ms. Sampson has watched that video numerous times too
12 and there's nothing on it.

13 SOLICITOR SAMPSON: What she -- what -- by nothing, she
14 means there's no movement. I mean it shows, it shows cars
15 parked up there. There's no movement on that camera. When
16 you say nothing, you know, it kind of implies that there's
17 nothing on it.

18 There's footage of cars. There's no footage of anyone
19 moving. Each of the other four cameras, at some point,
20 shows activity of people moving, of somebody involved in
21 this case moving.

22 THE COURT: And the dates that are on the screen shot,
23 dates and times, and that's the dates and times as to when
24 the camera started?

25 SOLICITOR SAMPSON: The dates?

1 THE COURT: To what was recorded when they started
2 moving.

3 SOLICITOR SAMPSON: Correct. The date -- and just to
4 be clear, the date is correct but everybody agrees the time
5 is -- should be 5:19. Not 4:19.

6 THE COURT: Sure.
7 Okay.

8 SOLICITOR SAMPSON: But it does say 4:19 to 4:25 is
9 when it, when it stopped.

10 MS. ZMROCZEK: And, and we agree that that was daylight
11 savings time. We, we -- we're not contesting that.

12 THE COURT: And so, Ms. Zmroczek, I guess what are you,
13 what are you, what are you asking?

14 what are you, what are you asking the Court to do?

15 MS. ZMROCZEK: Well, I'm asking -- I'll ask -- what I'm
16 asking the Court to do is suppress or exclude those.
17 However, if the Court feels like, for the purposes of this
18 hearing, that they could be admissible, then I would just
19 ask the Court to take into consideration the arguments that
20 we made and the issue is this, Your Honor.

21 Investigator Johnson makes, in his supplemental or his
22 case report, makes certain representations about what he
23 believes the pictures show or the videos show, and that --
24 that's where our concern, you know, once these videos come
25 in, that he -- Investigator Johnson's report literally says

1 and he began to think, as he was walking, thinking
2 everything's okay. You know, obviously, we would have a
3 concern with any of his -- what he believes it shows.

4 So, if the Court were to view it, for the purposes of
5 this hearing, that, that the Court just understands that
6 there were -- they saw things that weren't provided to us
7 and just take that into consideration when weighing what
8 they provide. Ideally, we would like it excluded because,
9 if it just shows people walking, then we don't know that
10 it's any -- well, you know, the relevance is, I understand
11 the timing line, but since there's no crime, it's -- the
12 videos aren't necessarily complete.

13 THE COURT: well, is there a question about who appears
14 in the video?

15 MS. ZMROCZEK: None. There are no questions about
16 that.

17 THE COURT: Okay. I'm still not, I'm still not sure
18 that I'm, I'm grasping what, what, what the exclusion
19 relates to or, or I understand that you're claiming that,
20 that the videos are not complete. I'm not sure about your
21 argument about why they should -- why they're not
22 admissible. But perhaps, after I hear information or we get
23 to a certain point where it becomes a little more relevant,
24 a little more clear, then I can, I can follow along with
25 your argument. But I mean if, if your argument's that

1 they're not admissible because they're not complete, that's
2 one thing. But I'm not so sure that's totally your
3 argument.

4 MS. ZMROCZEK: Correct, and we understand that. And,
5 so, yeah, any by not complete, you know---

6 THE COURT: In that, in that you're claiming that
7 they're two minutes that are missing.

8 MS. ZMROCZEK: Well---

9 THE COURT: Well, two minutes at least where I, that --
10 in, in which, according to the Sheriff's Department records,
11 there was movement on, on, on a camera but that was not
12 captured. So, there's no opportunity to view who those were
13 or what, what was going on during that particular point.

14 MS. ZMROCZEK: Exactly. And that, and that, and that
15 would be the basis of our argument, Your Honor.

16 THE COURT: Okay. I, I won't rule on it till I get to
17 a time where I, where I can put it all together. So, if, if
18 it's -- if it comes up during the cross-examination of the
19 witness, then we could take it up when we get to that
20 particular point. If it comes up some other time, we can
21 take it up at that point. I'm not going to rule on it at
22 this time.

23 MS. ZMROCZEK: Well, Your Honor, the next witness that
24 we're going to call is our digital forensics expert. He has
25 provided or he's generated kind of a timeline based on a

1 timeline with the videos and without the videos. So, I
2 guess if we were just -- it was -- you know, it would depend
3 on how the Court would rule. And we understand that this
4 would be a different argument for the jury. So, if the
5 Court is inclined to, to at least consider it just for this
6 hearing---

7 THE COURT: I don't -- I'll put it this way. I don't
8 think that necessarily goes to admissibility. I think it
9 goes to credibility. I think it goes to issues related to,
10 you know, the reasons why that information wasn't provided
11 or wasn't, wasn't captured. I can't say that it's not
12 admissible simply because that particular portion is not, is
13 not present, assuming that the rest of it -- the rest of
14 what is present is relevant. So, I, I don't -- I---

15 MS. ZMROCZEK: We'll go ahead and argue with it in --
16 with it in front of Your Honor.

17 SOLICITOR SAMPSON: May -- before -- I believe Ms.
18 Zmroczek just said that her expert is going to make a
19 timeline with the video. I've been provided several
20 timelines that he is going to reference or use but I haven't
21 been provided one with the video.

22 Your Honor, just for the record, we stipulated to his
23 report, his records coming in and his reports coming in
24 based on what I had already seen. I have just got this.
25 There are -- I don't -- I can show, Your Honor. I don't

1 know. I'll make it an exhibit. I don't know how many -- 32
2 entries of what he's put in. I would need to look to see if
3 they match. That's what we did with all of the records
4 because they're voluminous.

5 The first one he gave, unfortunately you can't even
6 print on big page. It's 200 pages printed. This is the
7 first I've seen of this. I would at least need time, before
8 I can agree that this is admissible, to check those things
9 or at least have a second to confirm that they're what I
10 already have because I don't know.

11 MS. ZMROCZEK: And, and they're everything that she
12 already has, Your Honor, but if she would like to -- he just
13 generated this last night and provided it to me this
14 morning.

15 THE COURT: How long is it gonna take you?

16 SOLICITOR SAMPSON: Maybe just five minutes but I mean
17 I literally don't---

18 THE COURT: Okay. All right. I'll give you, I'll give
19 you some time to look at it.

20 (WHEREUPON, a short recess was taken at this time.)

21 SOLICITOR SAMPSON: Your Honor, I know that we're
22 waiting for the defendant but I think Ms. Zmroczek and I
23 agreed that we just put on the record I have looked at the
24 reports that she planned on introducing with her expert.
25 well, she's gonna review it with her expert but there's one

1 part that has the testimony that will be her client, if he's
2 testifying, to put -- so, she's not gonna introduce it as a
3 document into evidence until after that. But I don't have a
4 problem with her using it with her expert to kind of move
5 into it.

6 THE COURT: Okay.

7 SOLICITOR SAMPSON: She's made some changes that we
8 agreed on.

9 THE COURT: All right.

10 SOLICITOR SAMPSON: Did I, did I say that correctly?

11 THE COURT: And remember, we are supposed to break at
12 11:00 unless something's changed on that.

13 SOLICITOR SAMPSON: We talked about that and I think, I
14 think we'll get through her expert---

15 THE COURT: Okay.

16 SOLICITOR SAMPSON: ---in time for her to go. If not,
17 we maybe just have a little bit left and I don't have a
18 problem with---

19 THE COURT: Well, if we go a little bit past 11:00,
20 that won't be too bad but yeah.

21 MS. ZMROCZEK: The email that I received from Mr.
22 Duncan, who is actually the witness, he's here, absolutely,
23 he's the witness, is that he's in Federal Court and but --
24 so, they were pushing it back to 11:30. But I don't know if
25 you've had the pleasure of working with Mr. Duncan. 11:30

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1 generally means 11:45. I mean, I asked, I asked Joanna, you
2 know, if it was between 11:30 and 11:45, and she said
3 absolutely.

4 (WHEREUPON, the defendant comes into the courtroom at
5 this time.)

6 (WHEREUPON, a Google map was marked as Defendant's
7 Exhibit No. 8. Phone records were marked as Defendant's
8 Exhibit No. 9. Text messages were marked as Defendant's
9 Exhibit Nos. 10 and 11. Phone records were marked as
10 Defendant's Exhibit No. 12. All of the above were for
11 identification purposes at this time.)

12 THE COURT: All right. You may call your witness.

13 MS. ZMROCZEK: Thank you, Your Honor.

14 We call Christopher Watkins.

15 THE COURT: Watkins?

16 MS. ZMROCZEK: Yes. Yes, Your Honor.

17 CHRISTOPHER WATKINS, being first duly
18 sworn, testified as follows:

19 THE CLERK: Thank you. Have a seat in the witness
20 stand please.

21 (Witness complies.)

22 THE COURT: If you'd state your full name for the
23 record please.

24 THE WITNESS: Christopher James Watkins.

25 THE COURT: Thank you.

Christopher Watkins - Direct examination
By Ms. Zmroczek

1 DIRECT EXAMINATION

2 BY MS. ZMROCZEK:

3 Q Mr. Watkins, what's your occupation?

4 A I'm a private investigator.

5 Q And where do you work?

6 A Watkins Digital Forensics and Investigations.

7 Q How long have you been employed with Watkins Digital
8 Forensics Investigations?

9 A I started my company January 12th of this year.

10 Q Where did you work prior to that?

11 A Prior to that, I worked at Stillinger Investigations
12 from February 2010 to about February of this year.

13 Q Are you licensed?

14 A I'm licensed by SLED.

15 Q Licensed by SLED?

16 A Yes.

17 Q Can you explain what digital forensics is?

18 A Digital forensics is an area of forensic science that
19 deals in the acquisition, securing of digital evidence,
20 including telephones, computers, tablets, DVRs, things of
21 that nature.

22 Q Okay. How long have you been working in digital
23 forensics?

24 A Since 2010. Professional.

25 Q Have you been qualified as an expert in digital

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1 forensics prior to today?

2 A Yes, I've been qualified in South Carolina or United
3 States Federal Court, South Carolina Circuit Court, General
4 Sessions, Common Pleas, and South Carolina Family Court.

5 MS. ZMROCZEK: Your Honor, at this time we would move
6 Mr. Watkins in as a digital forensics expert.

7 THE COURT: Any voir---

8 SOLICITOR SAMPSON: No objection.

9 THE COURT: No voir dire?

10 SOLICITOR SAMPSON: No, ma'am.

11 THE COURT: No objection.

12 Is that what you said, Ms.---

13 SOLICITOR SAMPSON: Yes.

14 THE COURT: Okay.

15 SOLICITOR SAMPSON: Yes, Your Honor.

16 THE COURT: Then I'll find him qualified in the area of
17 digital forensics.

18 Q Mr. Watkins, what were you hired to do in this case?

19 A I was hired to assist with the defense investigation
20 with a focus on the digital data that was provided in
21 discovery including the cell phone extraction reports, call
22 detail records that, that we obtained, as well as looking at
23 the phones themselves and reviewing the video.

24 Q Okay. Let's talk about, let's talk about the
25 telephones first. You talk -- you said call detail records.

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1 Explain what those are.

2 A Call detail, call detail records is gonna be provided
3 by the cellular provider. That's gonna detail a historic
4 timeline of phone calls, text messages, and typically will
5 also include cell site data, if requested.

6 (WHEREUPON, Defendant's Exhibit No. 5 was received into
7 evidence at this time.)

8 Q Showing you what's been previously entered as
9 Defendant's 5.

10 Did you make this CD?

11 A Yes.

12 Q And what does that CD contain?

13 A So, what I did, when I received the call detail
14 records, I analyzed them and put them into a format that's
15 more readable because these documents, when they're provided
16 to us, they're often very ugly, very difficult to read. So,
17 what I did is I color coded by incoming/outgoing calls and
18 sorted it so that it, it enables the person viewing it to
19 apply filters and sort the data so that they can make it
20 more readable. And that's what this disk contains.

21 Q And that disk contains all of the data from all the
22 dates that -- of the phones you were provided, correct?

23 A Yes. And I -- what I also did was I took the
24 information, the, the historic call log and text message log
25 that was in the extraction reports from the cell phones, and

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1 also integrated that into this master spreadsheet. And
2 they're also color coded to maximize readability for the
3 subject's -- for the defendant's phone records, call detail
4 records, cell phone extraction records, Travis Tucker's cell
5 phone extraction records, and Thomas Pauling's cell phone
6 extraction record.

7 Q And if we were to print that out, how many pages would
8 it be?

9 A There, there are ways to make it fit better but I think
10 it is around the area of 200 pages.

11 Q Wow. I'm providing you with -- it's already been
12 admitted, Defendant's 10 -- 9, 10, 11, and 12.

13 Are those portions of what is on the CD?

14 A Yes.

15 Q So, what, what we've done is just taken all of that
16 information and just taken a little bit that we want to
17 put -- that we want to focus on but all of it's available
18 for viewing it, correct?

19 A That's correct. The, the entire records are available,
20 yes.

21 SOLICITOR SAMPSON: Your Honor, I, I hate to interrupt
22 but I'm not -- I just want to make it clear, for the record,
23 that, and I don't know the exhibit numbers, but the records,
24 including the DVD or CD and all of these reports, were
25 stipulated to, and that's what she's referring to when she

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1 stated they've already been agreed to be introduced because
2 it's part of our stipulations that they came in as authentic
3 and admissible for purposes of this hearing. I don't know
4 that -- we did that outside the presence of Your Honor and
5 not on the record. So, I just want to put that on the
6 record that these, when she's saying they are in, in, it's
7 because we agreed, by stipulation. That's part of the
8 stipulations.

9 MS. ZMROCZEK: I'm sorry. Thank you, Your Honor.

10 THE COURT: And that's---

11 MS. ZMROCZEK: I forgot we did that.

12 THE COURT: And that's five and nine through twelve?
13 There may be others but at least those are the ones
14 we've talked about.

15 SOLICITOR SAMPSON: Yes, ma'am.

16 THE COURT: Okay. Thank you.

17 MS. ZMROCZEK: Thank you.

18 (WHEREUPON, State's Exhibit Nos. 9 through 12 were
19 received into evidence at this time.)

20 Q Starting with nine, explain what we can see on
21 Defendant's 9.

22 A These records cover the period of May 24, 2014,
23 7:58:33PM, to June 1st, 2014, 12:41:04PM. Then these
24 records contain a combined -- the combined records from Mr.
25 Ricks' extraction report from his cell phone, his call

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1 detail records, text messages that were acquired through the
2 cellular provider containing the actual content of the
3 messages, the records from the extraction report from Travis
4 Tucker's phone, and the records from Thomas Pauling's phone.

5 Q Describe what is a cell phone extraction record.

6 What does that mean?

7 A Okay. So, when I mention cell phone extraction, we're
8 talking about the actual acquisition of the phone using
9 forensic software to extract the data and then provide a
10 report.

11 Q Now, was that done through the Sheriff's Department?

12 A Yes.

13 Q And then did you follow-up on -- did you actually take
14 physical possession of the phones and do your own
15 extraction?

16 A Yes, and, and I did that for the purpose of just trying
17 to attempt to get additional data.

18 Q All right. Do different cell phone extraction programs
19 work differently or --?

20 A There -- there's no standard. It's still relatively,
21 it's still relatively, relatively new science. So, there
22 are some forensic tools that work a little bit better than
23 others, and there's also different extraction methods that,
24 that we use to try to maximize the amount of data output.

25 Q And then you also did a physical review of the phones

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1 as well?

2 A Yes. And, and I think what you mean by that is
3 actually physically look at the phone and the contents from
4 the screen. We -- I -- we call that typically a manual
5 extraction because what we'll do is we'll examine the device
6 by powering on the screen, going through the data on the,
7 the phone, and taking photographs. And then what I'll do
8 addition -- in addition to that is take the data as it
9 appears and to put it into a spreadsheet, which some of that
10 is included in this. And that was from -- the phone, the
11 phone that I did this with was Pauling's phone. That was
12 a -- that model phone, the way that it works with the
13 forensic software, the way that it stored the calls is it
14 would not extract all the calls.

15 Q Was that Tucker or Pauling?

16 Kyocera?

17 A No, it was not a Kyocera. It was the, the blue Q192---

18 Q Okay.

19 A ---i. That is Pauling's phone.

20 Q Pauling's phone.

21 Okay.

22 A So, the way that the data is stored on the phone, the
23 forensics software is -- when it communicates with the
24 phone, it's limited to just seeing the first call in a group
25 of calls between a particular contact. So, the forensic

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1 report that was, that was provided from the Sheriff's
2 Department did not grab all the calls, and when I looked at
3 it -- I mean -- when -- if. I'm sorry. When I ran the
4 extraction, it didn't catch all the calls either. It's just
5 the way that the phone communicates with the computer. So,
6 it's not an issue but that would be the only issue.

7 So, what I did was I just went through the call log for
8 any calls that took place on the date of incident and I just
9 added those manually to the report, including their
10 durations.

11 Q And the -- you have call detail records for, for Mr.
12 Ricks' phone.

13 Is that correct?

14 A Only for Mr. Ricks.

15 Q And how did you come into possession of those call
16 detail records?

17 A Those were obtained by Mr. Ricks' previous counsel.

18 Q He subpoenaed the cell phone?

19 A He subpoenaed them, yes.

20 Q And let me ask you this.

21 If, if I had today decided that I would like to
22 subpoena Mr. Pauling or Mr. Tucker's cell phone or call
23 detail records, what problems would that create?

24 A Well, if we, if we tried to do it today, they most
25 likely would not have the records. Typically records are

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1 only stored for about a year with Verizon. I'm not sure
2 what the service provider was for Tucker or, or -- well,
3 actually, I'm not really sure if either one of them were
4 with Verizon. But, typically, records are stored for only
5 about a year.

6 Q So, the reason that we were able to get those is they
7 were subpoenaed early on in the case?

8 A Correct.

9 Q And that's where, with the, with the manual or the or,
10 excuse me, with the extraction, we weren't able to get all
11 of the calls including missed called and deleted calls,
12 correct?

13 A With the extraction reports from, from these devices,
14 deleted content was not supported on the, the blue or the --
15 Pauling's phone or Mr. Ricks' phone. Those two I know for
16 sure. Deleted content was not supported with -- through the
17 extraction.

18 Q How, how does content get -- how does content get
19 deleted or manipulated in, in phones?

20 A So, depending on -- and it depends on the model phone,
21 of course, and these -- all these phones are -- they're not
22 smart phones. Typically with smart phones, you would
23 just -- you, you would manually delete the content. Some of
24 these older phones or in this, this case, flip phones, and
25 those that rely upon SIM cards, and the way the data is

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1 stored is it's very limited in the amount of space it can --
2 that it can hold. So, some of these devices, when they get
3 to a certain number of calls or texts, it will automatically
4 delete the, the last call on the, on the log to make room
5 for the next call but you can also manually delete the
6 content as well.

7 Q And the reason I'm asking is what -- a significant call
8 I think that appears in Defense Exhibit 9 is a call that's
9 made five -- May 25th at, I believe, 5:30. I can't find it.
10 Can you find it, can you find it for me?

11 It's the 9-1-1 call.

12 A Okay.

13 Q What page is that?

14 A Page 9 of 134.

15 Q Of Exhibit -- of Defendant's Exhibit 9?

16 A Nine, yes.

17 Q And what is indicated -- oh. What time was 9-1-1
18 called?

19 A 9-1-1 was called, from Channen Ricks' phone, at
20 5:32:27AM.

21 Q 5:32?

22 A 5:32, yes.

23 Q On five -- on May---

24 A On May 25th, yes.

25 Q 25th?

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1 And that's 5:32 in the morning?

2 A Yes.

3 Q Okay. What were the two previous calls prior to that
4 9-1-1 call?

5 A You say previous calls from Ricks' phone?

6 Q Correct, or two.

7 A Okay. So, beginning at 5:18AM on May 25th, Mr. Ricks
8 makes an outgoing call to Kiara Pelzer. That call is,
9 according to the cell phone, his cell phone, it's -- lists a
10 duration of 41 seconds. However, his call detail record
11 indicates that the duration of that call was six seconds,
12 and the difference between the, you know, 41 seconds and six
13 seconds is the call detail records are going to indicate the
14 actual connected time of the call. So, while his phone was
15 dialing or in the middle of trying to connect, that's
16 recorded on the phone. Whereas, the actual connected time
17 is reflected in those six seconds.

18 The next call was an incoming call at 5:25 or, I'm
19 sorry, May, May 25th, at 5:30AM.

20 Q At 5:30AM?

21 A 5:30AM and that was from his mother, and the duration
22 of that call was one minute and 45 seconds.

23 Q What do -- by getting all of this information, how does
24 this help you in investigating a case?

25 A Well, it helps me by being able to provide a timeline

Christopher Watkins - Direct examination
By Ms. Zmroczek

1 of what's going on through this critical time period.
2 That -- that's why the digital evidence in this case is or
3 obtaining all of the digital evidence in this case is
4 crucial to building a timeline in this case. In this case
5 in particular, we have to rely upon digital evidence because
6 we don't -- we have a lack of, you know, witness accounts
7 and---

8 Q There are a lot---

9 A ---of the events.

10 Q They're a lot of different witness statements?

11 A Well, as far as the eyewitnessing and like the -- like
12 you mentioned earlier about the camera footage, not having
13 the actual camera footage of the, of the incident.

14 (WHEREUPON,) phone records were marked as Defendant's
15 Exhibit No. 12. Nine photographs were marked as Defendant's
16 Exhibit Nos. 13 through 21. A summary of the timeline was
17 marked as Defendant's Exhibit No. 22. All of the above
18 exhibits were for identification purposes only at this
19 time.)

20 Q I'm showing you just what's been marked as Defendant's
21 22 and ask if that's, if that's a document you created.

22 A Yes.

23 Q So, what was the point of kind of creating an overall
24 just miniature timeline and what did you use and what, and
25 what was, what was it created?

Christopher Watkins - Direct examination
By Ms. Zmroczek

1 A Okay. To build this timeline, I used the, the
2 information, the timestamped information from the call
3 detail records, the cell phones, the cell phone extraction
4 records, and 9-1-1 calls, and the video that was obtained at
5 the Richland Village.

6 Q Okay. And based on all of that information, were you
7 able to narrow down a time period that this entire event
8 took place?

9 A Yes. Between 5:22:23AM and 5:25:02AM, which is a span
10 of two minutes and 39 seconds, we don't have any movement or
11 data indicating what's taking place. So, the, the incident
12 would of had to have taken place within that two minutes and
13 39 seconds.

14 Q Does it, does it also help you determine -- and what --
15 what I mean incident, and I was -- that was a poorly asked
16 questioned.

17 From -- I mean from the time that Mr. Ricks gets to his
18 house or to his apartment until the time that Mr. Pauling is
19 killed, what's that timeframe?

20 A You're asking the time that, that he arrives?

21 Q Like the number of minutes. Not the, not the actual
22 time or either the actual time or the -- how many minutes it
23 takes.

24 A Now, just so I understand the question you're asking,
25 the time that, that, that Mr. Ricks is arriving to the time

Christopher Watkins - Direct examination
By Ms. Zmroczek

1 after the incident or the time that we last see him on
2 video?

3 Q Yes.

4 A Okay. From the timeline provided, the best I can
5 ascertain about the timeline closest to when Mr. Ricks
6 arrived is we first see Travis Tucker on video at 5:19:37AM.
7 We last see -- the last time that we see Ricks in the
8 footage is 5:25:48AM.

9 THE COURT REPORTER: Excuse me. 5:25:40AM?

10 THE WITNESS: Forty-eight.

11 THE COURT REPORTER: Forty-eight?

12 THE WITNESS: Yes.

13 Q So, all of this occurs within seven minutes?

14 A Less than that, yes.

15 Q Less than seven minutes?

16 A Yes.

17 Q Okay. I want to just briefly talk about the -- I'm
18 gonna -- and all of these records just focus on a specific
19 time period that were in the CD, right?

20 A All the -- all of this?

21 Q All the, all the printed copies.

22 A All the printed copies, yes.

23 Q Okay. I want to focus just for a moment on the videos.
24 Did you actually go to the incident location?

25 A I did.

Christopher Watkins - Direct examination
By Ms. Zmroczek

1 Q And what was the purpose in doing that?

2 A To document the area, try to get measurements, view the
3 camera locations, and walk the paths of the -- of, of each
4 of the subjects as reported in Mr. Johnson's summary, I'm
5 sorry, Investigator Johnson's summary.

6 Q And how many buildings are located in this apartment
7 complex?

8 A Fourteen.

9 Q If -- I'm handing you what's been marked but not
10 entered as Defendant's 8.

11 Can you just number the buildings?

12 A Yes.

13 Q And that's based on your visiting the scene and the
14 records provided to you?

15 A My knowledge of the numbers of each building?

16 Q Yes.

17 A Yes.

18 Q The purpose in doing -- in gathering information that
19 can't, let's say, that, that doesn't rely on human memory,
20 can that help corroborate or, or discredit someone's story?

21 A I believe so, yes.

22 Q And the timeline that you put together, which is not
23 entered in yet, but Defendant's 22, that's based -- is that
24 based on just testimony or is that based on actual visual
25 evidence?

Christopher Watkins - Direct examination
By Ms. Zmroczek

1 A It's, it's based on the evidence that we, that we have
2 provided or that were provided in discovery. I think we
3 were, we were -- I was able to, you know, kind of go over a
4 little bit of this with the defendant to kind of get a
5 better idea and kind of see how compared to his, his memory
6 of the events.

7 Q And did, did you -- were you also use to that -- were
8 you also able to use that to compare to other witness
9 statements that you---

10 A That's correct, yes.

11 Q Okay. Please answer any questions that the State has.

12 THE COURT: Any cross?

13 SOLICITOR SAMPSON: Thank you, Your Honor.

14 CROSS EXAMINATION:

15 BY SOLICITOR SAMPSON:

16 Q Good morning, Mr. Watkins.

17 A Hi.

18 Q Now, you talked about how the records were.

19 You actually -- you and I have talked about some of
20 these records prior to this hearing, correct?

21 A Yes, we have.

22 Q And, in fact, the Clear Talk records that were provided
23 are actually pretty hard to understand?

24 A They, they really are. Out of all the companies that,
25 that I've dealt with in the past, they're probably the

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 hardest.

2 Q And so, based on that, you make these reports to help
3 everybody.

4 would that be fair to say?

5 A Yes. Yes, ma'am.

6 Q Okay. And you were, though, provided, prior to that,
7 what had been, as the, as the Sheriff's Department calls it,
8 dumped from Mr. Ricks' phone?

9 A The extraction report from Mr. Ricks' phone, yes, I was
10 provided that as well.

11 Q And I guess the slang term for that is dumped?

12 A Yes, that's -- that goes around a lot. So, yes, we can
13 use that.

14 Q Okay. But the technical term is you extract,
15 extraction report or you're taking stuff out of the phone?

16 A Yes, that's fair.

17 Q All right. And you did that yourself as well once you
18 had access to the phone?

19 A Yes, when I got the phones, I essentially did the same
20 thing to see about our -- attempt to acquire additional
21 data.

22 Q And you compared what you were able to extract to what
23 they were able to distract -- extract?

24 A Yes.

25 Q Can you tell us what the differences were of -- I know

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 the 9-1-1 call from Mr. Ricks is not on the one downloaded
2 from the Sheriff's Department, correct?

3 A Right.

4 Q On that -- were you able to extract that?

5 A No, the -- that particular model phone is not supported
6 for deleted data recovery.

7 Q So, it's your testimony that 9-1-1 call was deleted?

8 A It was deleted at some point, yes.

9 Q There's no way to tell when it was deleted, right?

10 A There's no way to tell when or by whom it was deleted.

11 Q So, when the Sheriff's Department extracted the
12 information, they extracted what they could from the phone?

13 A Yes.

14 Q And you -- I believe Ms. Zmroczek asked you, you were
15 provided the Clear Talk records or the defense was provided
16 them through Clear Talk, correct?

17 A Yes, through subpoena.

18 Q And you're able to do that or they're able to do that
19 with a subpoena to the cell phone provider?

20 A To get the records?

21 Q Yes, sir.

22 A Yes.

23 Q You can't get those records unless you know the cell
24 phone provider, correct?

25 A Yes, which is -- typically, when I get a phone that I'm

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 not sure of the cell phone provider, I can usually just do a
2 quick look up using our database that's available to
3 investigators. There's also an online service that's
4 actually free that I can just put the phone in and it will
5 actually tell me the service provider.

6 Q So, you have to figure out the cell phone provider,
7 correct?

8 A Yes, it only takes me, you know, a couple minutes just
9 to put that in.

10 Q But without knowing the cell phone provider, you can't
11 get, for example, the text messages or anything that's not
12 still in the phone?

13 A Right. You would have to, you would have to look up
14 the number, find out the cell phone provider, and then issue
15 the subpoena.

16 Q And then, I believe you stated this on direct, there
17 were also extractions done by the Sheriff's Department of
18 Mr. Pauling's phone and Mr. Tucker's phone, correct?

19 A Yes.

20 Q And then you also did extractions of those phones?

21 A I did.

22 Q Okay. And were your extractions that you've done in
23 any significant way different from the extractions you were
24 provided by the Sheriff's Department?

25 A No, I just noted that, in the phone belonging to Mr.

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 Pauling, the way that it was extracting the data, it wasn't
2 doing a complete download and that's why I took, I took
3 steps to collect that data manually to input it into that
4 timeline report.

5 Q And even when you did the manual extraction, and I
6 asked you about this---

7 A Uh huh. (Affirmative).

8 Q ---before, most of that had to do with the duration of
9 the calls?

10 A Yes, that was another thing that was not pulled from
11 the phone. Just the way that the data is stored in the
12 phone, it does not pull the duration time, which was, if
13 you're looking at the phone, it's actually recorded
14 underneath the date and time period, and, for some reason,
15 the way that the software communicates, it only sees that
16 first line. It only grabs the first line. It won't grab
17 the data below that.

18 Q I want to show you, I believe it's up here now, in
19 Defense Exhibit No. 9 --.

20 A Yes.

21 SOLICITOR SAMPSON: May I approach, Your Honor?

22 THE COURT: Yes.

23 Q On Page 9 of this report -- this is the report you
24 created, correct?

25 A Yes, that's correct.

Christopher Watkins - Cross-examination
By Solicitor Sampson

- 1 Q Okay. And it lists a call by Thomas Pauling.
- 2 A Yes.
- 3 Q And that call was at 5:22, correct?
- 4 A Yes, 5:22AM.
- 5 Q On the date of this incident?
- 6 A On the date of incident.
- 7 Q And it's to a person that he has listed as Lil' Tee?
- 8 A Yes, in his contacts, it's listed as Lil' Tee. L-I-L
- 9 T-E-E.
- 10 Q And just to be clear, on this report, if there's
- 11 something here, a name that's from either their contact
- 12 information or if you talk to Mr. Ricks, he may have given
- 13 you that information?
- 14 A Yes. Also provided in this report is a -- this is a,
- 15 like a workbook, workbook. So, it contains multiple sheets.
- 16 This particular report contains two sheets I believe. One
- 17 containing the communications data. The second sheet
- 18 contains the contact information, which is -- that
- 19 information was aggregated from each of the contact logs
- 20 from, from all three phones, and some of that -- some of the
- 21 items appearing in that contact log were numbers that I
- 22 researched to attempt to identify the person who had that
- 23 number and, and that -- that's all, yeah.
- 24 Q Okay. And, on that same call, you have a duration of
- 25 12 seconds?

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 A Yes.

2 Q And that was when you had to manually extract, extract
3 it, correct?

4 A Um.

5 Q That's Thomas Pauling.

6 A Yes, that's correct. Yes.

7 Q Because Thomas Pauling's phone, the only way you
8 could---

9 A That's right.

10 Q ---get the duration was to do the manual extraction?

11 A That's right.

12 Q And you looked at all of these pages, correct, at some
13 point?

14 A I would say the, the bulk of -- the bulk of it, yes. I
15 wouldn't be able to remember all of it.

16 Q Do you remember if there are any texts between Mr.
17 Ricks and Mr. Pauling?

18 A I want to say that there was at some point or at least
19 call data or something.

20 Q There might of been a call.

21 Were there any texts?

22 A I, I don't want to testify to that because I'm not 100
23 percent sure.

24 Q Okay. I'm going to show -- point to you -- assuming
25 this goes all the way back.

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 All right. These records only go back on the -- on
2 Defendant's Exhibit No. 9, they stop at May 24th at 7:58PM,
3 correct?

4 A Yes.

5 Q You actually have more information that you provided,
6 correct?

7 A Yes, I believe it, it begins on May 21st, if I recall
8 correctly.

9 Q Okay. On May 24th, there is a call, I'm on Defense
10 Exhibit, same exhibit, Page 18, here.

11 A This one here?

12 Q Yes, these two.

13 A Okay.

14 Q And it says that, at 8:36, there's an incoming call
15 from Thomas Pauling to Channen Ricks.

16 Is that correct?

17 A Yes.

18 Q And it's 42 seconds?

19 A Forty-two seconds, yes.

20 Q And you have this listed twice?

21 A Yes, the reason why it's listed twice, I've, I've color
22 coded the document. There's a column that is not appearing
23 that is cut-off from the printout that indicates the source
24 of where that data came from.

25 Here we have an entry that's green, an entry that's

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 blue. The green entries are the entries from the Clear Talk
2 records, and the blue entries are from the extraction report
3 from that particular statement.

4 Q Okay. And so, there's really just one call, correct?

5 A That's correct. You'll find duplicates because of the
6 two records. We have the -- and you'll, you'll see this
7 with just Mr. Ricks' phone because we don't have the call
8 detail records from Tucker or Pauling. So, you'll see
9 duplicates, for anytime there's a call indicated from the
10 extraction report, it will also appear in the call detail
11 record.

12 Q And other than this call right here that's at 8:30, the
13 night before on May 24th, and you can look, are there any
14 other calls between Mr. Ricks and Mr. Pauling or any texts
15 between Mr. Ricks and Mr. Pauling?

16 A From that one that we, that we just listed?

17 Q Yes, sir.

18 A At 8:36, 8:36PM on May 24th, there are no entries, no
19 additional entries listed up until the time of the incident.

20 Q So, there's no other call and no other communication
21 between their, their phones, between the phones of Mr. Ricks
22 and Mr. Pauling after 8:30?

23 A Yes.

24 Q And you have the complete data from Mr. Ricks' phone,
25 through either his phone or through cell phone, correct?

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 A That's correct.

2 Q And Ms. Zmroczek talked to you a little bit about being
3 able to do a timeline using the phone records, the video,
4 and all of your other information?

5 A Yes.

6 Q Part of that information of making a timeline is based
7 on what the defendant told you?

8 A No, the focus in this particular case was to try to
9 develop a timeline so that I could then -- well, Mr. Ricks'
10 counsel could then use to compare to the statements that we
11 do have. So, not, not just -- not just to focus on Mr.
12 Ricks' statement.

13 Q And maybe I didn't state my question. I said part of
14 making the timeline---

15 A Oh.

16 Q ---was based on information he provided to you?

17 A Okay. Yes.

18 Q Not the whole thing?

19 A Correct. Yes.

20 Q So, any information that you used to make the timeline
21 that used anything he told you was -- had -- you had to take
22 what he told you as true?

23 A The -- I mean that -- the timeline was actually built
24 before. That, that was kind of the initial focus, and then
25 it's -- then I'd then apply it to the statements. So,

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 there's nothing indicated in this particular timeline that,
2 that really reflects anybody's actual statements or any
3 information. This is just kind of like a guide of just
4 knowing what's going on in, in this one, this one between
5 5:18AM and 5:43AM.

6 Q And let's talk about this 5:18AM.

7 I believe, on direct, you talked to -- you stated that,
8 at 5:18, is when this incident starts?

9 A I didn't testify to that.

10 Q I'm sorry.

11 A I said the best I could ascertain for, for the time --
12 the focus of trying to establish when the incident, when the
13 initial part of the incident at the [REDACTED] took place
14 would be to look at the, the timeline or, I'm sorry, the
15 timestamp indicated in the videos that -- the first video
16 that we see of any activity is at 5:19:37AM, which shows
17 Tucker running away from the, the Building 5, the Apartment
18 Building 5.

19 Q And that's at 5:19?

20 A That's at 5:19, yes.

21 Q So, we don't know -- you don't know what happened prior
22 to based on video, correct?

23 A We, we don't have any video of anything before that.

24 So, the timeline -- so then to answer your question, yes.

25 The initial point would be reflected or prepared from the

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 defendant's statement.

2 Q And Ms. Zmroczek asked you about the belief that the
3 incident took place between 5:22 and 5:25.

4 A Yes, between 5:22:23AM and 5:25:02AM.

5 Q When you say incident, what do you mean?

6 A The altercation.

7 Q Which one?

8 A The altercation leading up to the death of Mr. Pauling.

9 Q Are you talking about the altercation in the parking
10 lot or the altercation in the apartment building?

11 A In the parking lot. The -- this would follow the
12 incident at the apartment building because this is video
13 that takes place away from the apartment building.

14 Q And I just want to make sure because we keep answering
15 around incident.

16 A Okay.

17 Q When you first say incident from 5:22 to 5:25, you are
18 talking about what happened in the parking lot?

19 A In the parking lot, yes.

20 Q And that's not on video?

21 A That is not on video.

22 Q And this -- these documents that you provided show a
23 lot of calls, texts going on prior to Mr. Ricks coming to
24 the apartment, correct?

25 A Yes, essentially is everything that was provided or

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 extracted from the cell phones.

2 Q And he is not just texting or calling Miss Pelzer,
3 Kiara Pelzer?

4 A Who, who's he?

5 I'm sorry.

6 Q Mr. Ricks is not just calling and texting Kiara Pelzer
7 prior to going to the apartment, correct?

8 I believe you still have it in front of you.

9 A Yes. But to answer your question, just indicated on
10 the timeline, it begins where Mr. Ricks' calls or attempts
11 to call Kiara at 5:18AM.

12 Q Right.

13 A Prior to---

14 Q My question is she's not the only person he is calling
15 prior to coming to the apartment?

16 A Oh, that's correct, yes.

17 Q He calls and texts a person in his contacts named Vita,
18 correct?

19 A Vita, yes.

20 Q He calls and texts a person named Ceira in his
21 contacts, correct?

22 THE COURT REPORTER: I'm sorry. Ceira?

23 SOLICITOR SAMPSON: Yes, C-E-I-R-A.

24 A Yes, there were several, several other individuals that
25 are being communicated with.

Christopher Watkins - Cross-examination
By Solicitor Sampson

1 Q He calls and texts a number listed for Brianna Pelzer,
2 correct?

3 A Yes.

4 Q He calls and texts a person that he lists as Conda,
5 correct?

6 A Yes.

7 Q And he calls and texts a person named Sheray, correct?

8 A Yes.

9 Q And this is all from the time period from -- well,
10 we'll just start at midnight on the 25th through 5:18.

11 A Beginning with the time period that you just asked
12 about, yes, he's, he's contacting or in contact with several
13 individuals.

14 SOLICITOR SAMPSON: Beg the Court's indulgence.

15 (Pause.)

16 Q And just to be clear, and I think we've gone over it ad
17 nauseam but I just want to be sure, these records,
18 Exhibits -- State's -- Defense Exhibit No. 9 are the records
19 that you were provided and then you made this report?

20 A Yes, from the records, all the records combined, I
21 created this report, yes.

22 Q So, that report is a true and accurate reflection of
23 the records?

24 A Absolutely.

25 SOLICITOR SAMPSON: No further questions, Your Honor.

Christopher Watkins - Redirect examination
By Ms. Zmroczek

1 THE COURT: Any redirect?

2 MS. ZMROCZEK: Just briefly, Your Honor,

3 REDIRECT EXAMINATION

4 BY MS. ZMROCZEK:

5 Q The -- when did you receive the extractions from Thomas
6 Pauling and Travis Tucker's phones?

7 A Last week I believe.

8 Q And, and how was that received?

9 A I believe it was just provided---

10 Q was it, was it---

11 A ---on a CD.

12 Q was it at the defense request?

13 A I -- yes, I received it at the Solicitor's Office.

14 Q We requested it---

15 A Yes.

16 Q ---those cell phones being checked.

17 A We, we did request the cell phones to be analyzed and
18 provided -- for them to provide an extraction report and---

19 Q So, prior---

20 A ---and to actually have access to these devices
21 themselves.

22 Q So, prior to last week, the Sheriff's Department hadn't
23 extracted, had not extracted Mr. Tucker or Mr. Pauling's?

24 A Yes, we did not have any records, any -- no records
25 from either of those phones, Tucker or Pauling's.

Christopher Watkins - Redirect examination
By Ms. Zmroczek

1 Q But they were just sitting in evidence since May of
2 2014?

3 A Yes, there's no indication, in any of the discovery,
4 that any of these devices were ever examined.

5 Q She asked you about the, about the 9-1-1 call that was
6 deleted at some point, right?

7 A Yes.

8 Q And we don't know who did that?

9 A We don't know who deleted that 9-1-1 call, right?

10 Q Do we know if there were any phone calls made from Mr.
11 Ricks' cell phone after he was incarcerated?

12 A Yes, there's a, there's a call that takes place from,
13 an outgoing call, from Mr. Ricks' phone on May 27, 2014, at
14 2:36:16PM from a cell phone number 309-4279. The duration
15 of that call is seven seconds. I researched that number and
16 found it to belong to Investigator Johnson.

17 Q Investigator Kerry Johnson?

18 A Say that again.

19 Q Investigator Kerry Johnson.

20 A Kerry Johnson, yes.

21 Q Okay. So, a phone -- so, essentially, after Mr. Ricks
22 is in jail and the Sheriff's Department has his phone, a
23 call is made from his, Mr. Ricks' phone, to Mr. Kerry
24 Johnson's phone?

25 A Correct. That, that would indicate the phone was

Christopher Watkins - Redirect examination
By Ms. Zmroczek

1 accessed after Mr. Ricks is in custody.

2 Q What are the dangers of -- how does that compromise or
3 can it compromise the evidence on a phone?

4 A Potentially, yes, because essentially what we're doing
5 is, if you're accessing a phone in that manner and you're,
6 you're making the call from it or a text or utilizing it to
7 try to make data or use data to connect over the cell
8 service, you're essentially manipulating the data on the
9 phone by adding another entry, which could potentially
10 delete or remove an older entry, or if, in a case of
11 attempting deleted data recovery, it would actually go
12 against that.

13 Q So, so, let me ask you this.

14 Is it possible that Mr. Ricks, prior to turning himself
15 in, deleted that 9-1-1 call?

16 A Is it possible?

17 Q (Nods affirmatively.)

18 A Yes.

19 Q Is it possible that, after Mr. Ricks gives his phone
20 over to the Sheriff's Department, someone deleted that 9-1-1
21 call?

22 A That is also possible.

23 Q Well, we don't know what happened?

24 A We don't know when the call was deleted.

25 Q Okay. And Ms. Sampson asked you about phone calls and

Christopher Watkins - Redirect examination
By Ms. Zmroczek

1 text messages that Mr. Ricks was making throughout the
2 night. There were several men and women, men and women with
3 whom he was communicating.

4 A Yes.

5 Q Were you able to see, through Mr. Tucker's calls, if he
6 was communicating with several women?

7 A He was also communicating with several, several
8 individuals, yes.

9 Q And who are two of those women that are -- matter in
10 this case?

11 A Kiara and Brianna Pelzer.

12 Q Throughout the night?

13 A Yes.

14 Q And even prior?

15 A And prior, yes.

16 Q And she asked you about after May the 24th around
17 8:30ish call that Mr. Pauling made to Mr. Ricks.

18 There were no more texts or phone calls---

19 A Yes.

20 Q ---in-between then?

21 In your experience, if people are together, do they
22 text and call each other?

23 A I think it'd be fair to say that, if, if you're in the
24 presence of someone, you wouldn't be calling or texting
25 them.

Christopher Watkins - Redirect examination
By Ms. Zmroczek

1 Q Okay. And your, your, your chart that's color coded,
2 those explanations are actually -- they can be found on this
3 CD data, correct?

4 A You---

5 Q On this CD that you have.

6 A When you say explanations --?

7 Q Like the, the -- where the -- the last column that's
8 missing like the---

9 A Oh, you mean, you mean this source?

10 Q This source. Sorry?

11 A Yes, the source column essentially just indicates from
12 which device or what record that particular entry came from.

13 Q And that, that's on this -- on Defendant's, Defendant's
14 5?

15 A It is on there, yes.

16 Q Had -- if, if you put too many columns on a page, does
17 it make it difficult to read?

18 A Yes, there's a way to print all the columns but it
19 would make the text very tiny and it would be very difficult
20 to read.

21 MS. ZMROCZEK: I have no further questions.

22 THE COURT: Anything further?

23 SOLICITOR SAMPSON: Just briefly.

24 RECROSS EXAMINATION

25 BY SOLICITOR SAMPSON:

Christopher Watkins - Recross examination
By Solicitor Sampson

1 Q Ms. Zmroczek brought up something new just then.

2 You -- she talked about that you just extracted the
3 information off of the two phones for -- the one for Thomas
4 Pauling and for Travis Tucker last week.

5 A Yes.

6 Q And that extraction was done last week also by the
7 Sheriff's Department?

8 A Yes.

9 Q The phones were in evidence the whole time?

10 A To my knowledge, yes.

11 Q Would it, it have made a difference or would you have
12 been able to extract any more or less information had it
13 been done in May of 2014?

14 A Well, that's, that's really what's debatable here
15 because, the technology, the forensic software has developed
16 over that time period, and they do come out with different
17 extraction new methods or support or other model phones.
18 That's why I wanted to actually examine the devices and see,
19 you know, what we could see on that in comparison to what
20 they had done.

21 Q So, the software actually got better in the two years
22 that we've waited?

23 A That's correct, yes.

24 Q So, we might have gotten less back then?

25 A Potentially.

Christopher Watkins - Recross examination
By Solicitor Sampson

1 Q But not more?

2 A Well, we, we wouldn't really know that because it
3 wasn't -- they weren't ran back then but it is possible
4 there could have been, there could have been less or they
5 may, may not have been supported. We don't know.

6 SOLICITOR SAMPSON: Thank you. No further questions.

7 THE COURT: You may step down. Thank you.

8 Before we take a break for the morning, can we, just so
9 that I'm clear and the record's clear, which exhibits have
10 been stipulated to by counsel?

11 I have, so far, I have State's Exhibits 1, 2, and 4.

12 SOLICITOR SAMPSON: So far, Your Honor, for the record
13 -- I'm sorry. So far, for the record, the only any --
14 State's -- anything that's in is two page statement that was
15 introduced yesterday and four photographs. Those aren't per
16 stipulations. We have -- we did them as they came in. So
17 far for the State, there's nothing that we've agreed to
18 that's in or we've marked.

19 THE COURT: I'm, I'm still totally confused.

20 MS. ZMROCZEK: Nos. 1 through 5 for the State.

21 THE COURT: State's Exhibits 1, 2, 3, 4, 5, they're
22 five exhibits?

23 SOLICITOR SAMPSON: They're five exhibits.

24 THE COURT: They're all, they're all admitted?

25 SOLICITOR SAMPSON: They're all admitted.

1 THE COURT: Okay. They may not all have been talked
2 about but they're all exhibits?

3 SOLICITOR SAMPSON: Correct.

4 THE COURT: Okay. And for the defense, I have 1, 2, 3,
5 4, 5 that are in and 9 through 12.

6 MS. ZMROCZEK: Correct. And 6 and 7 are -- have been
7 stipulated to but they haven't been talked about yet.

8 THE COURT: Okay. So 1, 2, 3, 4, 5, 6, 7, and 9
9 through 12?

10 MS. ZMROCZEK: Correct.

11 SOLICITOR SAMPSON: Correct.

12 SOLICITOR SAMPSON: Wait. Nine through twelve were the
13 ones definitely done through stipulation as was four.

14 THE COURT: Just, just so lone -- I just want to be
15 clear as to what's in so when I, I know which ones are not.
16 I know that 22 is not in evidence, even though it's been
17 discussed, but it's not in evidence at this point.

18 Okay.

19 MS. ZMROCZEK: At this point, correct.

20 THE COURT: Okay. Thank you.

21 SOLICITOR SAMPSON: Thank you.

22 MS. ZMROCZEK: Thank you.

23 THE COURT: So, we'll take a break until 2:00 and come
24 back at 2:00.

25 MS. ZMROCZEK: And before we go off the record, Your

1 Honor, I believe that we discussed it yesterday, what --
2 when we printed -- like when we printed Exhibits 9 through
3 12, that was just to help the Court, and I think that we
4 agreed, instead of publishing the entire video or the entire
5 DVD of phone records, that the Court could look at it
6 without the presence of counsel.

7 THE COURT: Okay.

8 MS. ZMROCZEK: And I think the same with the 9-1-1
9 calls unless you plan on playing those out loud.

10 SOLICITOR SAMPSON: Probably.

11 Just for the record, Your Honor, I know you haven't
12 probably seen them, so since we're talking about them in the
13 abstract, it's probably easier to just play them.

14 THE COURT: Yeah, I mean I plan to look at them. So---

15 SOLICITOR SAMPSON: But what she---

16 THE COURT: I'm gonna have to look at them all anyway
17 But, but, but they're for each -- they're for separate
18 phones?

19 SOLICITOR SAMPSON: Except for No. 9 has all of these
20 combined into No. 9.

21 THE COURT: Okay.

22 MS. ZMROCZEK: No. 9 has all three phones.

23 THE COURT: Okay. And there's one missing.

24 SOLICITOR SAMPSON: I have 11 in my hand. I'm sorry.

25 THE COURT: And I don't have No. 9 either. She's got

1 No. 9. That's okay. That's fine.

2 Okay.

3 SOLICITOR SAMPSON: No. 9, he combined all of those
4 other ones and then she separated these particular ones in
5 the case we needed to talk---

6 THE COURT: Right.

7 SOLICITOR SAMPSON: ---about them more specifically.

8 THE COURT: Okay. I have, just to be clear, Exhibit --
9 Defense Exhibit No. 10, the source is Channen Ricks.
10 Defense 11, No. 11, I have the source name as Travis Tucker.
11 And for Defendant's Exhibit, Exhibit No. 12, the source name
12 I have is for Travis Tucker.

13 MS. ZMROCZEK: That's correct.

14 THE COURT: Okay.

15 MS. ZMROCZEK: And 9 is all three combined.

16 THE COURT: Okay. And so, Mr. Pauling's phones would
17 only be on Exhibit No. 9?

18 MS. ZMROCZEK: Correct.

19 THE COURT: Okay.

20 MS. ZMROCZEK: And Exhibit 5 with like all of them.

21 THE COURT: Yes, but---

22 MS. ZMROCZEK: Yes.

23 THE COURT: That's the CD, yes.

24 MS. ZMROCZEK: Correct.

25 THE COURT: Okay. All right. That's good. Thank you.

1 Anything else we need to take up?

2 SOLICITOR SAMPSON: Not from the State, Your Honor.

3 MS. ZMROCZEK: Not from the State (sic) and, Your
4 Honor, I'll have one more witness and, and then we'll be,
5 we'll be finished.

6 THE COURT: Okay. And then I think the State has some
7 witnesses.

8 Is that correct?

9 SOLICITOR SAMPSON: Yes, sir.

10 THE COURT: All right. All right. we'll see you-all
11 back at 2:00.

12 MS. ZMROCZEK: Thank you.

13 THE COURT: Thank you.

14 (WHEREUPON, two autopsy diagrams were marked as State's
15 Exhibit Nos. 6 and 7. A diagram of the apartment complex
16 was marked as State's Exhibit No. 8. The statement of Kiara
17 Pelzer was marked as State's Exhibit No. 9. Seven
18 photographs were marked as State's Exhibit Nos. 10 through
19 16. A DVD was marked as State's Exhibit No. 17. A
20 pathology report was marked as State's Exhibit No. 18. A
21 report from Richland Village was marked as State's Exhibit
22 No. 19. All of the above exhibits were for identification
23 purposes only at this time.)

24 (WHEREUPON, Court was in recess for the lunch break.)

25 THE COURT: Is there anything we need to take up before

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By Ms. Zmroczek

1 we get started?

2 MS. ZMROCZEK: Nothing from the Defense.

3 SOLICITOR SAMPSON: Nothing from the Defense (sic),
4 Your Honor.

5 THE COURT: Okay. You may call your---

6 SOLICITOR SAMPSON: I mean the State.

7 THE COURT: You may call your next witness.

8 MS. ZMROCZEK: Thank you.

9 May it please the Court.

10 Call Channen Ricks.

11 CHANNEN RICKS, being first duly
12 sworn, testifies as follows:

13 THE CLERK: Thank you. Have a seat in the witness
14 stand please.

15 (Witness complies.)

16 THE CLERK: State your name for the record.

17 THE WITNESS: Channen Ricks.

18 THE COURT: would you please spell your first name?

19 THE WITNESS: C-H-A-N-N-E-N.

20 THE COURT: Thank you.

21 DIRECT EXAMINATION

22 BY MS. ZMROCZEK:

23 Q Channen, tell the Judge how old you are.

24 A Twenty-eight years old.

25 Q where did you last work?

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- 1 A At Hardee's on Universal Drive.
- 2 Q Okay. Make sure you speak up so I can hear you.
- 3 Hardee's on where?
- 4 A On Universal Drive.
- 5 Q Okay. How many children do you have?
- 6 A Two.
- 7 Q How many children do you have with Kiara Pelzer?
- 8 A One.
- 9 Q And who is that child?
- 10 A Aiden R. [REDACTED].
- 11 Q How old is Aiden?
- 12 A He is now two years old.
- 13 Q When did you first start dating Kiara?
- 14 A Back in March, 2013.
- 15 Q And where did you live in May of 2014?
- 16 A With Kiara at Richland Village Apartments.
- 17 Q Did you sometimes stay somewhere else?
- 18 A I sometimes went to my momma house when me and Kiara
- 19 had arguments.
- 20 Q Okay. And where did you pay the bills?
- 21 A Where did I?
- 22 Q For which -- for which residence did you pay the
- 23 bills?
- 24 A At [REDACTED].
- 25 Q Did you have a key to [REDACTED]---

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- 1 A Yes, ma'am.
- 2 Q ---Richland? And when we say [REDACTED] that's---
- 3 A Richland---
- 4 Q ---the apartment in Richland village?
- 5 A Yes, ma'am.
- 6 Q Okay. And you had a key?
- 7 A Yes, ma'am.
- 8 Q When did that get made for you if you recall?
- 9 A I been had it for a while. I can't remember like
- 10 exactly when but I, I been had it for at least a year.
- 11 Q Okay. I want to talk about May 25th, 2014.
- 12 why, why do you remember that?
- 13 what's special about May 25th?
- 14 A My birthday.
- 15 Q That's your birthday.
- 16 How old were you May 25th, 2014?
- 17 A Twenty-six.
- 18 Q Let's go back to the night before. So, the 24th.
- 19 What, if any, plans did you have for your birthday?
- 20 A well, initially I wasn't gonna -- I wasn't gonna go
- 21 out. My, my sister -- my stepsister had called me and
- 22 asked me did I want to go to Myrtle Beach and I turned it
- 23 down. I just had bought a new car. So, you know, I, I
- 24 really didn't have any money to be going down there. And
- 25 so, I turned that down.

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1 And then a couple of my friends called me and asked me
2 did I want to go to Miami. I told them the same thing,
3 I didn't have the money. So, I just stayed at home.
4 And around -- in-between 7:30 and 8:30, I got a call
5 from Thomas.

6 Q And when you say Thomas, who's Thomas?

7 MS. ZMROCZEK: Your Honor, may I approach?

8 THE COURT: Yes.

9 Q Who's Thomas?

10 A A friend of mine.

11 Q What's his whole name?

12 A Thomas Allen Pauling.

13 Q Thomas Pauling.

14 How long have you known Thomas Pauling?

15 A Since I was 15. He was like 13.

16 Q Okay. And you say you received a call from him around
17 8:30?

18 A In-between 7:30 and 8:30.

19 Q Okay.

20 A Somewhere around there.

21 Q I'm gonna show you what's already admitted as
22 Defendant's 9 and I'm showing you Page 18.

23 What was your phone number?

24 A I can't recall.

25 Q Okay. Well, we already know it from these phone

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1 records.

2 Did -- is it -- was it 363-1412?

3 A I believe so.

4 Q That was your number and do your phone records
5 indicate an incoming call?

6 A Yes, ma'am.

7 Q And that's on Page 18 at -- of 134 of Defendant's 9,
8 and that was May 24th, 2014, at 8:36?

9 A Yes, ma'am.

10 Q Okay. So, Thomas called you and what did he say?

11 A Well, he had just recently came home.

12 Q From where?

13 A From prison and---

14 Q Had you -- let's stop for just one second.

15 Have you been to prison?

16 A Yes, ma'am.

17 Q What for?

18 A Strong armed robbery and possession of stolen motor
19 vehicle.

20 Q How much time did you do for that?

21 A I had seven years non-violent.

22 Q When were you, were you -- when were you released from
23 the Department of Corrections?

24 A March 1st, 2013.

25 Q 2013?

Channen Ricks - Direct examination
By Ms. Zmroczek

1 A Yes, ma'am.

2 Q So, shortly after, that's when you started dating
3 Kiara?

4 A Yes, ma'am.

5 Q And---

6 A A couple days later.

7 Q A couple days later.

8 When was Mr. Pauling released from the Department of
9 Corrections?

10 A I believe it was April 1st of 2014, something like
11 that. It was---

12 Q So---

13 A It was close around the time that one of my relatives
14 passed because he came by.

15 Q When who had passed?

16 A One of my relatives.

17 Q One of your relatives?

18 A Yes, ma'am.

19 Q And were y'all close enough friends that he came to
20 the house?

21 A Yes, he pulled right up in front of the house.

22 Q Okay. Do you know why he was in prison?

23 A No.

24 SOLICITOR SAMPSON: Objection, Your Honor. I don't
25 know the relevance of why the victim was in prison.

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By Ms. Zmroczek

1 THE COURT: What's the relevance?

2 MR. ZMROCZEK: Well, Your Honor, he may -- I asked him
3 did he know and I think he was gonna answer no. So, I
4 think that -- but I can move on if it's being---

5 THE COURT: Okay. Then move---

6 Q You don't know, do you?

7 A No, ma'am.

8 Q Okay. That's -- and that's fine but you know that he
9 had just gotten out. And so, he came to your relative's --

10 A Yes, ma'am.

11 Q -- funeral?

12 A No, he didn't come to the funeral. It was -- we was
13 at, you know, like a family gathering and stuff all at the
14 house.

15 Q And that's when y'all reconnected?

16 A Yes, ma'am.

17 Q And then he called you the evening -- the eve of your
18 birthday at 8:30?

19 A Yes, ma'am.

20 Q And what did he tell you?

21 A He just told me that he just got his phone back on and
22 he -- you know, he knew it was my birthday and that he
23 wanted to go turnt up.

24 Q What's that mean?

25 A Just go have a good time.

Channen Ricks - Direct examination
By Ms. Zmroczek

1 Q Okay. And so, where, where did y'all -- who made the
2 suggestion on where to go?

3 A I believe I said something about it on Facebook and
4 that's how, you know, everybody knew, knew.

5 Q Knew that it was your birthday or knew where to meet?

6 A Knew where to meet.

7 Q And where did y'all decide to meet?

8 A At Club Torch.

9 Q At Club Torch?

10 A Yes, ma'am.

11 Q Where is Club Torch?

12 A It's located on Garners Ferry Road at the old Side
13 Pockets.

14 Q Okay.

15 MS. ZMROCZEK: I think Defendant's 6 is already in.
16 Do you recognize this map?

17 A (No audible response.)

18 Q You have to say.

19 A Yes, ma'am.

20 Q Okay.

21 MS. ZMROCZEK: Your Honor, at this time we would -- I,
22 I think it was already stipulated to, but Defendant's 6,
23 we would move in.

24 THE COURT: I think you've already stipulated to it.

25 MS. ZMROCZEK: I, I thought so.

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By Ms. Zmroczek

1 (WHEREUPON, Defendant's Exhibit No. 6 was received into
2 evidence at this time.)

3 Q Okay. This map indicates 720 Hazelwood.

4 Is that where Club Torch or Side Pockets was?

5 A I -- it's on Hazelwood. I don't know if that's the
6 exact address.

7 Q Okay. And it's fairly close to your house?

8 A Right around the corner.

9 Q Okay. But that night, when he called you, where were
10 you?

11 A I was sitting on my, my, my Godbrother's porch. I just
12 got off the phone with my sister. She was asking me---

13 Q But where were you located?

14 A On Shop Road.

15 Q On Shop Road?

16 A Yes, ma'am.

17 Q Okay. And then -- so, what did you do after he called
18 you?

19 A I went, I went -- well, I walked down the street to
20 go home to my mama house.

21 Q Where was that?

22 A At [REDACTED].

23 Q Okay.

24 A And I went there and asked my mama could I, you know,
25 borrow the car, go out, and she told me yeah. And I got

Channen Ricks - Direct examination
By Ms. Zmroczek

1 in the car and, and left.

2 Q Okay. Did anything significant happen when you
3 borrowed the car that night?

4 A Yeah, she told me don't back into Larry truck and I
5 went right outside and backed into it.

6 Q How far did you go in school, Channen?

7 A Tenth grade.

8 Q Tenth grade?

9 A Yes, ma'am.

10 Q Did they give you some tests -- did they give you some
11 tests when you were -- when you were at SCDC?

12 A Like what kind of tests?

13 Q Like to, to test your learning and, and things
14 like that.

15 A No.

16 Q You, you don't -- do you remember?

17 A I, I really don't.

18 Q Okay.

19 A I really don't remember like -- I know when I was on
20 the yard they did it.

21 Q When you were on the yard they did?

22 A Cause I think they give me like a test at, at R&E,
23 something like that.

24 Q And when you were in school, what kind of classes were
25 you in?

Channen Ricks - Direct examination
By Ms. Zmroczek

1 A I was in a self-contained class.

2 Q Okay. And I'm not trying to embarrass you. Just
3 trying to -- it's, it's, it's sometimes hard for you to
4 remember things?

5 A Sometimes.

6 Q Okay. So, you went -- you, you accidentally hit
7 Larry's car.

8 Where did you go after that?

9 A Uh---

10 Q ---when you left your mom's---

11 A I went---

12 Q ---that night.

13 A I went to Washington Park to pick a couple of my
14 friends up.

15 Q Who did you go pick up?

16 A Derrick Rhinehart and Arthur Robinson.

17 Q And is that the -- the area is Washington Park?

18 A Yes, ma'am.

19 Q Okay. And do you recall what time that was?

20 A Maybe somewhere around about 11:00.

21 Q About 11:00?

22 A Yes, ma'am.

23 Q Did you call them or text them to tell them that you
24 were coming?

25 A No, I just -- I pulled up and asked them was they

Channen Ricks - Direct examination
By Ms. Zmroczek

1 gonna go out. They said yeah, but they needed to
2 get ready. So, they went in the house, did a couple things,
3 and came out. Then we left and headed for the club.

4 Q And you were driving?

5 A Yes, ma'am.

6 Q And you went straight to Club Torch.

7 A Yes, ma'am.

8 Q Who did you see when you got there?

9 A Well, when I was pulling up at the light across the
10 street from the Kangaroo Gas Station, I took my phone out
11 and proceeded to call Thomas to let him know that we was
12 about to pull up. But as we was pulling in, I seen they
13 car on the left-hand side at the light. So, I just hung the
14 phone up and the light turned green. I went across the
15 street and we all -- they pulled in behind me in the
16 Bojangle's parking lot across the street from the club.

17 Q Did y'all all walk into the club together?

18 A Yes, ma'am.

19 Q Who else was in that group of -- how many people were
20 there, if you remember?

21 A It was myself, Thomas, Travis, Derrick, Arthur.

22 THE COURT REPORTER: Arthur?

23 THE WITNESS: Arthur.

24 THE COURT REPORTER: Arthur?

25 THE WITNESS: Yes, ma'am.

Channen Ricks - Direct examination
By Ms. Zmroczek

1 And maybe like two or three other guys.

2 Q Okay. And when you say---

3 A I'm not real---

4 Q ---say Travis, Travis who?

5 A Tucker.

6 Q How do you know Travis Tucker?

7 A I don't really know him that well. I know, I know, I
8 know him from being around T sometime.

9 Q T, and T is that what y'all -- was that Thomas's
10 nickname?

11 A Yes, ma'am.

12 Q Okay. Did you have a nickname?

13 A Yes, ma'am.

14 Q Well, what is it?

15 A Black.

16 Q Okay. That's what people call you?

17 A Yes, ma'am.

18 Q So, y'all went to the club.

19 Were there any problems?

20 A No, it was, it was actually a smooth night. You
21 know, we just caught up on some lost time. You know, I
22 been gone for a while, and then when I came home, you know,
23 he was gone. So, we kind of like missed each other, and,
24 you know, I conversated with him while he was still in
25 prison and --.

Channen Ricks - Direct examination
By Ms. Zmroczek

1 Q Were y'all drinking?

2 A Yeah, we had some drinks.

3 Q Did you have a lot to drink?

4 A I had like three drinks.

5 Q Okay. Did -- were y'all smoking?

6 A Yes, ma'am.

7 Q What were y'all smoking?

8 A Marijuana.

9 Q Were y'all taking any other drugs?

10 A Well, they was but I don't, I don't, I don't do hard
11 drugs. I just do marijuana.

12 Q Okay. Who, who, who else was using drugs that
13 evening?

14 A Everybody.

15 Q What kind of drugs were they using?

16 A Molly. Ecstasy pills.

17 THE COURT REPORTER: I'm sorry.

18 Ecstasy pills, is that what you said?

19 THE WITNESS: Yes, ma'am, Molly.

20 Q So, Molly and ecstasy pills?

21 A Yes, ma'am.

22 Q Did anybody get into any fights?

23 A No, like I told you, it was, it was a smooth night.

24 You know, very relaxed, no confrontations.

25 Q There have been some talk about you were texting a lot

Channen Ricks - Direct examination
By Ms. Zmroczek

1 of people and, and mostly texting a lot of people that
2 evening.

3 Do you remember?

4 A I remember some of them.

5 Q Okay. Did you have -- what was the nature of your and
6 Kiara's relationship?

7 A Well, me and Kiara had a real good relationship up
8 until her parents found out that, you know, she was having
9 my child and then things started to get shaky. You know,
10 her, her, her mother wasn't real happy with her having
11 another child, and I, I really thought -- I only said
12 something to her. Kiara explained to me that I shouldn't
13 tell her that but, you know, I felt like she would be
14 happy---

15 SOLICITOR SAMPSON: Objection, Your Honor. I don't
16 mean to interrupt but he's going into the -- what the mother
17 thought.

18 THE COURT: Yeah, just---

19 MS. ZMROCZEK: Yeah, well, I'll -- we'll move on.

20 So, y'all had a good relationship but then it, it
21 got rocky at times?

22 A Yes, ma'am.

23 Q Did y'all have fidelity issues?

24 Do you know what that means?

25 A Like cheating and stuff?

Channen Ricks - Direct examination
By Ms. Zmroczek

- 1 Q Yeah.
- 2 A Yeah, we did after a while.
- 3 Q Did you cheat on her?
- 4 A Yes, ma'am.
- 5 Q Did she cheat on you?
- 6 A Not that I know of.
- 7 Q Okay. Not that you know of.
- 8 Not that you knew of?
- 9 A Yeah, not that I knew of.
- 10 Q Okay. And did that sometimes cause fights?
- 11 A I mean it, it did but we kind of, you know, worked
12 through things. It wasn't that big of a issue at first.
13 You know, a lot of, a lot of strain on our relationship
14 came from, you know, her parents---
- 15 Q Okay.
- 16 A ---not wanting me to be around.
- 17 Q When you -- you were texting her throughout the
18 evening, correct?
- 19 A Yes, ma'am.
- 20 Q Do you know Brianna or Brianna?
- 21 A Yes, ma'am.
- 22 Q And who is Brianna?
- 23 A Brianna's Kiara's cousin.
- 24 Q Were you texting and talking with her?
- 25 A Well, I assume it was Kiara, you know, cause me and

Channen Ricks - Direct examination
By Ms. Zmroczek

1 Bri don't really talk like that. We don't really see
2 eye-to-eye.

3 Q So, when you were getting text messages from Brianna's
4 phone, you, you assumed that they were Kiara -- that was
5 Kiara using her phone?

6 A At first I didn't know -- I didn't recognize the
7 number at first when the, when the first text came
8 through but it was my birthday. So, you know, if they got
9 my number, apparently they must know me to have my number,
10 texting my phone.

11 Q And then you found out later it was Kiara?

12 A And then I found out later that it was Kiara from
13 Brianna's phone.

14 Q Okay. Did you see them at the club that night?

15 A No.

16 Q Did they know -- did, did y'all have a conversation
17 about where you were?

18 A Yeah, because I got a text from Brianna phone that
19 says where you at, and, you know, I just text back
20 Torch. I really didn't know who the number was but, like I
21 said, if they got my number, it must be somebody who I deal
22 with cause, you know, I don't just give my number out.

23 Q Okay. But did you see them that evening at, at the
24 club?

25 A No, ma'am.

Channen Ricks - Direct examination
By Ms. Zmroczek

1 Q what time did you leave?

2 A (No response.)

3 Q Let me ask you this question.

4 Does Torch have a closing time?

5 A Sometimes like if it get, if it get too riled up
6 in the club, you know, they might close it down early but
7 usually they'll let it just play out, you know, the whole
8 night just play out till whatever time people start leaving.

9 Q So, they don't kick y'all out at two o'clock?

10 A No, ma'am.

11 Q Okay. Do you, do you know what time you left that
12 evening?

13 A It was probably about in, in-between 4:00 and 4:30.

14 Q And did you have Arthur and Derrick with you?

15 A Well, Arthur left with his, his, his son mother.

16 Q Okay.

17 A And me and Derrick left together.

18 Q And what did you -- who was driving?

19 A I was driving.

20 Q And where did y'all -- excuse me.

21 where did y'all go?

22 A I took Derrick home.

23 Q And what did you tell Derrick you were gonna do?

24 A Told him I was 'bout to go home and I'll holler at him
25 in the morning.

Channen Ricks - Direct examination
By Ms. Zmroczek

- 1 Q Okay. And where were you going home?
- 2 A Kiara's house.
- 3 Q And why were you going there?
- 4 A Because that's where I live at.
- 5 Q Had you received any messages from her?
- 6 A Yeah, we, we text. When, when me and Derrick was
- 7 walking, was walking out the club, I got a text to my phone
- 8 and I think it was asking like where am I going and I don't
- 9 -- I can't remember if I responded back or not but I know
- 10 that I got a text asking me where was I going, and then she
- 11 start calling me or either I start calling her.
- 12 Q Okay. I want to show you Defendant's Exhibit 10.
- 13 On 25, Page 2, at -- so, the date is 5/25/2014 at
- 14 4:29AM. You have an incoming text from Kiara Pelzer.
- 15 Read what that text says.
- 16 A You said at 4:29?
- 17 Q At -- yes, at 4:29.
- 18 A It says Boy, lay. You at BB house. I'm bout to come
- 19 -- I'm bout to come. Are you with your B?
- 20 Q Okay. So, what -- when you got that text at 4:38,
- 21 what, what was your impression or what did you do as a
- 22 result of that?
- 23 A I knew that she was trying to come be with me.
- 24 Q It was your birthday.
- 25 A Yes, ma'am.

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- 1 Q And she said, Boy, lay, I know that---
- 2 A Are you at BB house?
- 3 Q Okay.
- 4 A That's what she called my momma.
- 5 Q And that's what -- she called BB house.
- 6 So, when she says lay, I'm about to come you, what was
- 7 your understanding of what was gonna happen that night?
- 8 A We was---
- 9 Q You can say it. Everybody in here's adults. It's
- 10 fine.
- 11 A We was gonna get together and have sex and just
- 12 chill.
- 13 Q Okay. So, you were gonna just have your normal
- 14 relationship?
- 15 A Yes, ma'am.
- 16 Q Okay. So, you started -- she was calling you.
- 17 How was your phone reception?
- 18 A It was kind of off and on because it was kind of
- 19 raining out the door, and, you know, I don't have a real
- 20 expensive phone. So, reception was bad.
- 21 Q And had you been on your phone all night?
- 22 A Yeah. Texting people---
- 23 Q Okay.
- 24 A ---and people calling. It was my birthday. They
- 25 were just wishing me happy birthday, the majority of them.

Channen Ricks - Direct examination
By Ms. Zmroczek

- 1 Q So, she called you several times.
2 Did you speak with her?
- 3 A Yes, ma'am.
- 4 Q And, as a result of that, where were you headed?
- 5 A I was headed back to Garners Ferry Road.
- 6 Q And where were you gonna eventually go?
- 7 A I was gonna go home.
- 8 Q Okay. To [REDACTED]?
- 9 A Yes, ma'am.
- 10 Q All right. And you're calling her.
11 Is she picking up?
- 12 A Yeah, she picking up. They call me too. They was --
13 Brianna was asking me did I have any weed. I was telling
14 her yeah. I asked them where they was and they said they was
15 on Garners Ferry. And I said where you at on Garners
16 Ferry? I'm on Garners Ferry too. And then the phone hung
17 up.
- 18 Q It disconnected?
- 19 A Yeah, and they called back and I called back and we
20 talked. And they was just like we on Garners Ferry. I
21 kept saying like where at on Garners Ferry. I was
22 trying to tell -- I was really trying to ask her did she
23 want me to get her something to eat before I came home but,
24 you know, the phone kept hanging up. And then I had to
25 keep calling back and then she'll call back.

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1 Q Okay.

2 A Like a lot of back and forth.

3 Q And I'm going to show you what's been previously
4 marked as Defendant's 22. The phone records indicate that
5 you made a phone call at 5:18 that morning.

6 Do you, do you remember that call?

7 A Yes, ma'am.

8 Q Where were you when you made that call?

9 A I was about to turn on Universal Drive.

10 Q So, you were about -- you were on Universal Drive?

11 A I was turning onto Universal.

12 Q Okay. So, you were turning -- going where, to your
13 apartment?

14 A Yes, ma'am.

15 Q Okay.

16 MS. ZMROCZEK: Your Honor, at this time we'd like to
17 move Defendant's 22 into the record.

18 THE COURT: Any objection?

19 SOLICITOR SAMPSON: I'm sorry. I just don't know which
20 one's -- oh, without, without objection.

21 THE COURT: It's admitted.

22 MS. ZMROCZEK: Thank you.

23 (WHEREUPON, Defendant's Exhibit No. 22 was received
24 into evidence at this time.)

25 Q So, you were turning into your apartment around 5:18 in

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1 the morning.

2 A Yes, ma'am.

3 Q And what happened next?

4 A I pulled up to the apartment, and, you know, everything
5 was pretty normal looking to me. The house was dark.

6 Kiara car was parked where it normally parked, and I'm

7 parking in my normal parking spot. And then it was like

8 lightly raining. So, I took the keys, put them in my

9 pocket, and I sat in the car for about a minute. Then I got
10 out the car and went to the door.

11 Q Then what did you do after you got to the door?

12 Were there any lights on?

13 A No, there was no lights on.

14 Q Okay. So, what did you do next?

15 A I tapped on the door and said Kiara. I called her
16 name.

17 Q Why would you knock on the door if you had a key?

18 A It always just became a habit. That's what I always
19 do.

20 Q Did she answer?

21 A No.

22 Q So, what did you do?

23 A Took the keys out of my pocket and proceeded to go in
24 the house.

25 Q Okay. Tell the Judge what happened when you put your

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1 key in the door.

2 A Well, I took my keys out of my pocket and I put it --
3 put the key in the door. And as I'm unlocking the lock to
4 open the door, the door comes open to about a slight crack
5 and it's like resistance at the door. So, I was trying to
6 push the door, but, you know, it, it wouldn't come open.
7 So, I -- it felt like somebody was holding the door. So, I
8 was trying to go in and as I---

9 Q When you couldn't open the door and you thought
10 somebody was in there, what were you thinking?

11 A I was thinking that, you know, maybe somebody came in
12 the house behind them or something. I, I just, I just
13 didn't know what really was going on. I know that nobody
14 was supposed to be there.

15 Q Who -- and who was there that you knew?

16 A At the time I didn't know who was there.

17 Q Right.

18 But did you know Kiara was there?

19 A Yeah, cause her car was there.

20 Q And what about your baby?

21 A Yeah.

22 Q And does Kiara have another child?

23 A Yes.

24 Q Navaya P.

25 A Yes, ma'am.

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1 Q And how old is she -- how old was she?

2 A She was six at the time.

3 Q Okay. And was, was she there?

4 A Yes, ma'am.

5 Q And did you know that your nephew was babysitting?

6 A No, I didn't.

7 Q All right. So, you didn't know that he was there?

8 A No, ma'am.

9 Q Okay. So, when you met that resistance, take us
10 through the chain of events that happened.

11 A Well, when I met the resistance at the door, I kind of
12 got scared because, you know, I didn't know what was going
13 on. So, as I proceeded to come in the house, I pushed past
14 on the door. And then when I came in the apartment, like,
15 there's this little space in-between the door and the closet
16 right in behind the door.

17 So, as I pushed past the, the door and I made it in the
18 house, someone grabbed my leg, and, you know, I went to turn
19 and somebody hit me from the side. At that point, you know,
20 I was scared because I, I really didn't understand what was,
21 what was happening. I really thought, you know, they was in
22 trouble inside the house.

23 Q Did you know who was in your -- did you know who these
24 people were at this time?

25 A No, ma'am.

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1 Q Were there any lights on in the house?

2 A No, ma'am.

3 Q All right. What happened next?

4 A A fight broke out between me and the guys and---

5 Q And hang on one second.

6 (WHEREUPON, a diagram was marked as Defendant's Exhibit
7 No. 23 for identification purposes only at this time.)

8 Q I'm gonna show you Defendant's 23 and ask if you
9 recognize that.

10 A Yes, ma'am.

11 Q Is that, is that -- did you draw this?

12 A Yes, ma'am.

13 Q And is that the layout of your apartment?

14 A Yes, ma'am.

15 MS. ZMROCZEK: Your Honor, at this time we'd like to
16 move Defendant's 23 into evidence.

17 THE COURT: Any objection?

18 SOLICITOR SAMPSON: I have no objection. I just think
19 we should note that it's not to scale. It's just---

20 MS. ZMROCZEK: Of course, it's not to scale.

21 THE COURT: Yes, ma'am. It's admitted.

22 MS. ZMROCZEK: Thank you.

23 (WHEREUPON, Defendant's Exhibit No. 23 was received
24 into evidence at this time.)

25 Q Channen, so, the doorway is where?

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1 A Right here.

2 Q And where did you first feel somebody grab you?

3 A When I came through the door right here. I was kind
4 of like standing at the corner of the living room and where
5 the closet space.

6 Q Did things get broken as a result of that -- of you
7 walking in?

8 A Yes, ma'am.

9 Q What, what, what kind of things were broken?

10 Like how did things get broken?

11 What was going on?

12 A Well, we was fighting. You know, we was, we was in a
13 small space, and, you know, it's a few people right here.
14 And I don't know how it got broke but the front window was
15 broken.

16 Q When -- how long did that last, that fight?

17 A It didn't last real long. You know, as I -- you know,
18 as I said, when I came to the door and I was in, you know, I
19 felt someone grab my leg, you know, and someone hit me and I
20 started to fight back and tussling. And like, as my eyes
21 set to, you know, the darkness for the room, I could tell
22 that one of the dudes was like trying to brandish a gun.
23 So, you know, we started fighting and wrestling over the
24 gun. I heard some screaming, and, you know, it kind of,
25 kind of scared me.

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- 1 Q who was screaming?
- 2 A Kiara.
- 3 Q Did you call her name?
- 4 A I don't -- I can't say -- like I don't remember calling
- 5 her name but I start fighting with the dudes because I
- 6 didn't want the gun to go off. And I went in the room
- 7 behind --.
- 8 Q Keep going, sir.
- 9 A And I went in the room---
- 10 Q which room?
- 11 A To the kids' bedroom.
- 12 Q And on Defendant's 23, would that be Navaya P. bedroom?
- 13 A Yes, ma'am.
- 14 Q Okay. That's what you call the kids' bedroom?
- 15 A Yes, ma'am.
- 16 Q Was the door open or closed?
- 17 A It was open.
- 18 Q And who was in there?
- 19 A I really couldn't tell who was in there because, you
- 20 know, the lights was off.
- 21 Q Was Kiara in there?
- 22 A Yeah.
- 23 Q Could you see what she had on?
- 24 A No, I couldn't see what she had on.
- 25 Q Were you asking her -- what, what, what were you

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By Ms. Zmroczek

1 talking to her about?

2 A I was just asking her what's going on, what the
3 problem is, what's going on. And she, she just kept saying
4 that, you know, baby, I'm sorry.

5 Q Did you know -- did you have any idea at this point
6 what was -- what you had walked into?

7 A No, ma'am.

8 Q Okay. So, you're in the room.

9 what happens next?

10 A Well, me and Kiara, I'm asking her over and over like,
11 what's going on, what's going on, and she just keeps saying
12 I'm sorry, I'm sorry, I'm sorry, baby, I'm sorry. And then
13 she go to try to grab me and hug me, and I go to turn away,
14 to walk out the room. And as I'm walking out the room,
15 somebody came to the door with the gun and shot in the air.

16 Q The gun was shot into the room?

17 A I believe so.

18 Q Do you know where your child was at that time?

19 A I didn't.

20 Q Where was he?

21 A I didn't know.

22 Q You didn't know?

23 A Yeah.

24 Q So, what happened when you heard that gunshot?

25 A I just started wrestling with the dude at the door,

Channen Ricks - Direct examination
By Ms. Zmroczek

1 started fighting again.

2 Q where were y'all fighting at, at this point?

3 A Kind of like in the doorway, in the hallway. It's
4 so tight of a space that like you can kind of like be in
5 both---

6 Q what do you mean he was kind of like me?

7 A I say you can kind of like be in both the spots---

8 Q oh, okay.

9 A ---at the same time because the area is so small.

10 Q Okay. And so, you were wrestling for the gun?

11 A Yes, ma'am.

12 Q what happened?

13 A We wrestled for the gun and we fell to the ground and
14 I was able to gain control of the gun.

15 Q And did you know who had the gun at this point -- I
16 mean like who you were fighting with?

17 A No, ma'am.

18 Q Okay. So, what happened after you got control of the
19 gun?

20 A when I got control of the gun, the person who I was
21 fighting with over the gun got up and ran towards the front
22 door.

23 Q Okay. And do you know where the other person was?

24 A I, I don't know. He had to be standing like right
25 behind like where we was fighting at because this person

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1 ran toward the front door. And as of -- when I got the gun
2 and I got up, I seen a person go into me and Kiara bedroom.

3 Q So, you saw one person running through the front door
4 and you saw another person run into the bedroom?

5 A Yes, ma'am.

6 Q And what did you do?

7 A I walked in the room to see if the person who went in
8 the bedroom left out. And when I got in the room, when I
9 turned around and walked into the room, I seen him going
10 out the window.

11 Q What did you do at that point?

12 A I proceeded to get my phone out my pocket to try to
13 see if I could call somebody and let somebody know what was
14 going on. I looked out the window and I didn't see which
15 direction he ran at.

16 Q And how -- where was Kiara at this point?

17 A Kiara had to still be in---

18 Q Do you, do you know where she was?

19 A No. But I figured that she would still have to be in
20 the kids' bedroom.

21 Q But did you know this?

22 A No.

23 Q Did you see her again?

24 A No.

25 Q Okay. So, how long were you in the house after the two

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By Ms. Zmroczek

1 -- the one person went out the front and the other person
2 went out the window?

3 A Probably stayed in the house anywhere from about two
4 to two and a half minutes.

5 Q What were you doing in there?

6 A I was trying to call my friend.

7 Q Why were you trying to call your friend?

8 A Just to let somebody know what, what I walked into.

9 Q Okay. Did you know still at this point what you had
10 walked into?

11 A It really still wasn't really all clear to me but I
12 knew it wasn't right, whatever was going on.

13 Q So, what did you do next?

14 Did you get in touch with anybody?

15 How's the reception in the apartment?

16 A The reception is real bad. You have to be in a
17 certain spot to use the phone or for your phone -- if
18 somebody call you, sometimes it may ring and sometimes it
19 don't. I mean I always drop, drop calls.

20 Q What did you do next?

21 A Well, when I was in -- when I was in the room and I
22 heard---

23 Q Which room were you in?

24 A I was in me and Kiara's bedroom. And, like I said, I
25 looked out the window and I didn't see nobody. So, I walked

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1 back out of the room into the living room, nobody was in
2 there, and I heard something at the front.

3 Q what did you hear?

4 A Like somebody walking on glass or something.

5 Q At the front?

6 A Yes, ma'am.

7 Q At the front door?

8 A Yes, ma'am.

9 Q So, then what, what were you thinking at that point?

10 A I was thinking that somebody was about to come back in
11 the house.

12 Q So, what did you do?

13 A So, I went back in the bedroom and went out the window.

14 Q Where were you going?

15 A I was going to my friend house who stays in the next
16 apartment.

17 Q Okay. What apartment number does that friend stay at?

18 A Fourteen.

19 Q In Building 14?

20 A Yes, ma'am.

21 Q What's that, what's that friend's name?

22 A Tam -- Tamara Jones.

23 Q Tamara Jones.

24 So, you were going to Tamara Jones's house?

25 A It's her sister's apartment but they stay together.

Channen Ricks - Direct examination
By Ms. Zmroczek

1 Q Okay. I'm gonna hand you what's been marked as
2 Defendant's Exhibit 8 and ask if you recognize what that
3 is.

4 A Yes, ma'am.

5 Q Okay. And it's a map of -- what is it?

6 A It's a map of the complex.

7 Q Okay. I'm gonna hand you this pink pen. I want you to
8 draw in pink the route that you took to go to your
9 friend's apartment.

10 A (The witness complies.)

11 Q And you're going to Apartment 14, right?

12 A Yes, ma'am.

13 Q Okay. Did you get to your friend's apartment?

14 A I made it to the front of her apartment.

15 Q Okay. And what happened?

16 A As I was coming to the front of the apartment, I heard
17 somebody calling, saying like, Trav, Trav.

18 Q You heard somebody calling?

19 A (Witness nods affirmatively.)

20 Q And what were they saying?

21 A Trav.

22 Q Trav?

23 Okay. What happened next?

24 A When I looked up, this person was coming in my
25 direction and he grabbed me. Like grabbed me up on my

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1 upper body.

2 MS. ZMROCZEK: Your Honor, if, if we may, can I have
3 him demonstrate?

4 THE COURT: Yes, ma'am.

5 One of y'all will need to let -- take one of his hands
6 out.

7 MS. ZMROCZEK: If he can just get one of his hands out,
8 yeah. Just for this little -- okay. So, I'm you and where
9 is Building 14?

10 Like where are you standing in relation to Building 14
11 at this point?

12 A I'm standing right here at Building 14---

13 THE COURT: You need to speak loudly please.

14 MS. ZMROCZEK: Oh, yeah. You need -- because she's
15 going to need -- you have to keep your voice really high.

16 THE WITNESS: I'm standing, I'm standing facing the
17 parking lot and Building 14 is to my left-hand side.

18 Q Okay. So, if I'm you, Building 14 is here and then
19 what happened -- you said this person ran up on you?

20 A Yes, ma'am.

21 Q Okay. You be the person.

22 Which side did they come from?

23 A They came from the right-hand side.

24 Q Okay. So, come over to the right-hand side.

25 A (The witness complies.)

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By Ms. Zmroczek

- 1 Q And make sure you keep your voice up. So, I'm you,
2 facing the parking lot, and the building's to the left.
3 All right. Show me what happened.
- 4 A well, I was -- when I was---
- 5 Q Speak up.
- 6 A When I was coming through the side of the two
7 apartment buildings, I heard someone calling Trav, Trav,
8 Trav. When I held my head up and looked, because I was
9 crying, when I held my head up to look, the person was
10 coming towards me and grabs me like this.
- 11 Q And what did you do?
- 12 A I grabbed him back.
- 13 Q Okay. And so, y'all -- what happened then?
- 14 A We got into a slight tussle and---
- 15 Q All right. Did you recognize this person?
- 16 A No, not at first.
- 17 Q Okay. And so, you say a tussle.
18 where was the gun at this point?
- 19 A I had it concealed on my side.
- 20 Q Was it in your pocket?
- 21 A No, it was just on the inside of my pants.
- 22 Q Okay. And so, he grabbed you, you grabbed him, and
23 then what happened?
- 24 A well, he was a little taller---
- 25 Q You can demonstrate.

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1 A He was a little taller than me. So, when he grabbed
2 me, I kind of grabbed him up under the underarms. He
3 grabbed -- I kind of grabbed him up under the underarms and
4 we go to tussling and he tried to hip toss me. And as he go
5 to turn to hip toss me, I kind of like put a hand down to
6 keep from falling and the gun falls out.

7 Q Okay. What -- where did the gun fall?

8 A On the ground like in-between us like over here a
9 little bit, like---

10 Q In the parking lot or on the ground?

11 A No. Like -- I don't think it was really much grassy
12 area right there but it fell like in-between us. We was
13 like in the grass area but I don't think it's like -- think
14 it's like dirt right here.

15 Q Okay. All right. Have a seat.

16 A (The witness complies.)

17 Q What happened when the gun fell out?

18 Did y'all both -- what -- what did you see?

19 A Well, when the gun fell out---

20 Q Speak up.

21 A When the gun fell out, we both, you know, obviously
22 heard the gun fall to the ground. And, you know, he went
23 for the gun at the same time that I went for the gun. And,
24 you know, it was just a wrestling match at that point. And
25 I obtained possession of the gun again.

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By Ms. Zmroczek

1 Q What happened when you got the gun the second time?

2 A I just turned around and shot.

3 Q How many times did you shoot?

4 A I can't recall.

5 Q Why did you shoot?

6 A Because I was scared. This was the second time that I
7 was being jumped.

8 Q Did you see more than one person?

9 A No, I didn't.

10 Q When he was calling for the other person, what were
11 you thinking?

12 A I really, I really wasn't thinking much. I was just
13 surprised that, you know, somebody was right here. I, I
14 wasn't really thinking much. I was just trying to make it
15 to my friend's house and let her know cause she's like a
16 sister to me and I just -- this is where I come everyday. I
17 come to her and her sister's apartment everyday.

18 Q What did you believe would happen if you did not start
19 shooting?

20 A Just felt like, you know, I would end up getting killed
21 because, you know, like I say, this is my second time being
22 jumped, you know. I just -- I didn't know what was going on
23 at the time.

24 Q Were you in fear of losing your life when you were in
25 the apartment?

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By Ms. Zmroczek

1 A Yes, ma'am.

2 Q Were you in fear of Aiden losing his life when you were
3 in the apartment?

4 A I was afraid that everybody in the house was in danger.

5 Q And then, when you were outside, were you in fear of
6 losing your life at that point?

7 A Yes, ma'am.

8 Q You said you just started shooting.

9 How far away were you?

10 A Not too far.

11 Q Were they facing you?

12 were they running away?

13 Do you know?

14 A Well, no. Like I said, it was a tussle over the gun.

15 So, when I gained control, we kind of like we just pushed
16 off.

17 Q You pushed off and started shooting?

18 A Yeah.

19 Q What happened next?

20 A Well, you know, I---

21 Q Speak up.

22 A I seen the person fall on the ground.

23 Q Did they fall right away?

24 A No.

25 Q Okay. So, you started shooting and then what happened?

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By Ms. Zmroczek

- 1 A I started shooting, and, you know, I seen a person. I,
2 I didn't realize that I shot him but, you know, when I
3 seen that the person fell to the ground, I knew he must
4 have been injured.
- 5 Q So, what did you do?
- 6 A I ran up and looked and I was just like oh, bruh.
- 7 Q What did you say?
- 8 A Bruh.
- 9 Q Bruh.
- 10 And, at that point, did you know who it was?
- 11 A I did.
- 12 Q You did?
- 13 A Yes, ma'am.
- 14 Q So, you recognized him after that?
- 15 A Yes, ma'am.
- 16 Q And who was that?
- 17 A My friend.
- 18 Q Your friend?
- 19 A Thomas.
- 20 Q Up until that moment, did you know that Thomas was in
21 your apartment?
- 22 A No.
- 23 Q Did you know that Thomas was at your apartment
24 complex?
- 25 A No, ma'am.

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By Ms. Zmroczek

1 Q How much had Thomas had to drink that night?

2 A I can't really say how much he had to drink. You
3 know, I wasn't monitoring his drinking or anything you know.

4 Q Was he doing drugs that night?

5 A Yes, ma'am.

6 Q The last time you saw him, before you got to your
7 apartment, did y'all have any problems?

8 A No, I, I hugged and told him that I'd holler at him
9 tomorrow.

10 THE COURT REPORTER: I'm sorry. You hugged him and
11 what?

12 THE WITNESS: I hugged him and told him that I'd
13 holler at him tomorrow.

14 Q What were you thinking when you saw that it was
15 Thomas?

16 A I just couldn't believe it. That's my dog.

17 Q And when he, when he jumped you outside, did you
18 know it was him?

19 A No.

20 Q I want you -- on Defendant's 8, I want you to draw an
21 X where he jumped you.

22 A It was like a sidewalk like right here. We was kind of
23 like maybe right in the front like right here.

24 Q Okay. And then where did he go?

25 A Ran away here a little bit---

Channen Ricks - Direct examination
By Ms. Zmroczek

1 THE COURT: I'm sorry. I can't hear him.

2 THE WITNESS: He, he kind of ran straight at like a
3 slant a little bit.

4 Q And where did you go?

5 Draw, draw a pink line to where you went.

6 A (The witness complies.)

7 Q And that's where you said Bruh?

8 A (No audible response.)

9 Q And then what did you do?

10 A I wanted to pick him up but I didn't want to touch
11 him.

12 Q Okay. So, what did you do?

13 A So, I said I'm gonna just go back to my car and leave.

14 Q Okay. Draw the path to where you went.

15 A (The witness complies.)

16 Q Okay. Where was the gun?

17 A It was concealed on my side.

18 Q On your side.

19 Okay. So, starting from Building 5, you went to
20 Building 14. The X is where you got jumped. The point is
21 where you said Bruh and then the path is where you went to
22 your car?

23 A Yes, ma'am.

24 Q All right. After you got in your car, which -- draw
25 an arrow as to which direction you traveled.

Channen Ricks - Direct examination
By Ms. Zmroczek

1 A (The witness complies.)

2 Q So, you traveled away from Universal Drive?

3 A Yes, ma'am.

4 MS. ZMROCZEK: Your Honor, at this point we'd like to
5 move Defendant's 8 into evidence.

6 THE COURT: Any objection?

7 SOLICITOR SAMPSON: Yes.

8 (Pause.)

9 SOLICITOR SAMPSON: Without objection.

10 THE COURT: I'm sorry?

11 SOLICITOR SAMPSON: I'm sorry. Without objection.

12 THE COURT: It's admitted.

13 (WHEREUPON, Defendant's Exhibit No. 8 was received into
14 evidence at this time.)

15 Q What happened when you got into your car?

16 Where were you going?

17 A I was just going to keep driving. I wasn't really
18 sure where I was gonna go to.

19 Q Okay. While you were driving, did you receive any
20 phone calls?

21 A I think I received a call or either I called my momma.

22 Q Okay. And do you remember talking to your mom?

23 A I don't really remember our conversation but I know
24 that I spoke to her. You know, I was telling her that they
25 was trying to kill me.

Channen Ricks - Direct examination
By Ms. Zmroczek

1 Q what did your mom tell you to do and what did you do
2 next?

3 A She told me to call the police.

4 Q Did you?

5 A Yes, ma'am.

6 Q So, when you were driving, after you got a call from
7 your mom -- and this is Defendant's 9, Page 9, Your
8 Honor.

9 You made a call to 9-1-1?

10 A Yes, ma'am.

11 Q Okay. And this record indicates that it was at 5:32AM?

12 A Yes, ma'am.

13 Q I know that we've slowed this down but how fast did
14 all of this happen?

15 A Extremely fast.

16 Q How much time -- in-between the first time you were
17 jumped and the second time you were jumped, how much time
18 had passed?

19 A Only like three minutes at the most.

20 Q So, this happened really fast.

21 A Yes, ma'am.

22 Q When you called 9-1-1, what did you tell them?

23 You were on the phone for 3 minutes, 57 seconds with
24 them.

25 what did you tell them?

Channen Ricks - Direct examination
By Ms. Zmroczek

1 A I was just telling them that they was trying to kill
2 me.

3 Q Did you give them your name?

4 A I can't really remember if I gave her my name or not.
5 I think she asked me.

6 Q What were you -- what, what, what was your state
7 of mind at that point?

8 What were you thinking about?

9 A It was so much running through my head. I, I really
10 can't, you know, say everything that was going on.

11 Q Do, do you even remember?

12 A I was just confused. I was in a state of shock. I
13 was scared.

14 Q Did you hang up on 9-1-1?

15 A Yes, ma'am.

16 Q Okay. Did they call you back?

17 A Yes, ma'am.

18 Q It indicates they called you back several times.
19 Where were you at this point?

20 A I was at my cousin house.

21 Q How's the reception at your cousin's house?

22 A It's all kind of bad because of the area. There's a
23 lot of woods.

24 Q So, where does your cousin live?

25 A I think it's Quail Creek --

Channen Ricks - Direct examination
By Ms. Zmroczek

1 Q Okay.

2 A -- or one of those neighborhoods around on Leesburg.

3 I think it's -- I think the name of it is Quail Creek

4 though.

5 Q Okay. And so, when they called, they -- did you answer

6 -- did you finally speak with 9-1-1 again?

7 A Yes, ma'am.

8 Q Okay. Did you tell them where you were?

9 A Not at -- no. No, ma'am.

10 Q Why didn't you?

11 A I was still just confused and scared. I really just

12 didn't even feel safe. I didn't want to.

13 Q You didn't feel safe?

14 A No.

15 Q After you spoke with 9-1-1 a second time, where did you

16 go next?

17 A I was in my cousin house and I stayed there for a

18 while.

19 Q What did you do with the gun?

20 A I left it in the house.

21 Q Do you know what happened to it?

22 A No.

23 Q When you say you left it in the house, when did you

24 leave your cousin's house?

25 A I don't remember the exact time but it was -- the sun

Channen Ricks - Direct examination
By Ms. Zmroczek

1 had done came up. It was like daylight time.

2 Q And where did you go?

3 A I went -- I -- my, my homeboy took me to Rush's on
4 Garners Ferry where I met my cousin and his wife.

5 Q And who's your cousin?

6 A Darrell Richardson.

7 Q Okay. So, you met Darrell and his wife.

8 What's her name?

9 A Laqunda -- Laqunda Richardson.

10 Q And that's who testified yesterday?

11 A Yes, ma'am.

12 Q So, when you met them, where did you go?

13 A They took me -- well, you know, he took me to a motel
14 room over -- I want to say Exit 113 in Lexington is the
15 Masters Inn. I think it's next to a Red Roof Inn.

16 Q Why did you go to the hotel?

17 A Because I was in shock. I just didn't know what was
18 going on. I was scared. I was confused.

19 Q When they left the hotel, did anybody come and join
20 you?

21 A Yes ma'am.

22 Q Who was that?

23 A Kiara.

24 Q Were you in contact with your mom at this point?

25 A I think I had spoken with her once more.

Channen Ricks - Direct examination
By Ms. Zmroczek

- 1 Q Did she give you -- what did you do -- did she give
2 you any numbers to call?
- 3 A Yes, ma'am.
- 4 Q Who did she tell you to call?
- 5 A She told me to call this investigator.
- 6 Q Okay. Who was the investigator?
- 7 A Mr. Johnson.
- 8 Q Do you know Mr. Johnson?
- 9 A No.
- 10 Q Have y'all had dealings in the past?
- 11 A No, ma'am.
- 12 Q Okay. So, Mr. Johnson -- whose phone did you call him
13 on?
- 14 A I think my phone had went dead. So, I had one of my
15 cousin's phones.
- 16 Q Okay. So, your phone was dead at this point?
- 17 A Yes, ma'am.
- 18 Q You used your cousin's phone?
- 19 A Yes, ma'am.
- 20 Q And do you remember the conversation that you had with
21 Mr. Johnson?
- 22 A I remember parts of it but it wasn't a real long
23 conversation.
- 24 Q Okay. Was he asking you questions?
- 25 A Yes, he asked me when, when was I gonna come talk to

Channen Ricks - Direct examination
By Ms. Zmroczek

1 him. I believe he said that, you know, somebody was dead.

2 Q When did you learn that Thomas had died?

3 A Maybe like -- it was like an hour or two later. It was
4 probably around---

5 Q An hour or two after you left the apartment?

6 A It was an hour or two after I left my cousin house.

7 Q Okay. When you talked to Investigator Johnson, what
8 was your -- what was your state of mind?

9 A I was just, you know, real emotional, crying.

10 Q Did you agree to meet with him?

11 A Yes, ma'am.

12 Q When did, when did you meet with him?

13 A Well, he asked me when could I come see him and I told
14 him that I would call him back and I never called him back.

15 Q Okay. And did you eventually turn yourself in?

16 A Yes, ma'am. Well, I think I spoke with him once more
17 before and he, he said that, you know, Channen, you need
18 to come talk to me. And I told him that I was gonna come
19 talk to him. And he said well, you know, if you don't come
20 talk to me, I'm gonna have to put you on the news. And I
21 asked him not to put me on the news. And he said that I
22 needed to come talk to him. So, at that point, you know, I
23 started making calls, just telling people that I was going
24 to go down there.

25 Q Did you eventually go down to the police station?

Channen Ricks - Direct examination
By Ms. Zmroczek

- 1 A Yes, ma'am.
- 2 Q Sheriff's Department?
- 3 A Yes, ma'am.
- 4 Q what happened when you got there?
- 5 A well, when I, I pulled up -- when we pulled up the
- 6 first time, I seen everybody out standing in front.
- 7 Q when you say everybody, who was out there?
- 8 A My family. I seen them all standing out in front of
- 9 the police station and it kind of just started bothering
- 10 me again. So, I asked my cousin, you know, to ride past one
- 11 time. So, he kept going straight. You know, he was like,
- 12 cuz, you got to go do this. I was like I know. And turned
- 13 around -- we rode up the street, turned around, and turned
- 14 up in the police station.
- 15 Q And what did you do next?
- 16 A Opened the door and got out the car. Momma came up to
- 17 me and hugged me.
- 18 Q And what did you do with your phone and your keys?
- 19 A I gave them to Mr. Johnson. He pulled up. I gave them
- 20 to him.
- 21 Q Did you go inside and talk with Investigator Johnson?
- 22 A Yes, ma'am.
- 23 Q why didn't you tell him what happened?
- 24 A I didn't tell him what happened because he said that,
- 25 when he spoke with me, that the information that he got

Channen Ricks - Direct examination
By Ms. Zmroczek

1 from me, he felt like I was admitting to shooting Thomas.
2 And I told him that I did not admit to shooting Thomas. And
3 you know, he---

4 Q Did he say you confessed?

5 A He didn't say that I confessed but he just said that,
6 you know, the information that he got from me, he felt like
7 that that's what I was doing.

8 Q Did you feel comfortable talking to him after that?

9 A No, ma'am.

10 Q I want to show you -- I'm first gonna show you
11 Defendant's 13.

12 Can you point to where this incident took place, and
13 when I say incident, I'm talking about the second time you
14 were jumped?

15 A It happened right over here in this grassy area.

16 THE COURT REPORTER: I'm sorry. I can't hear you.

17 THE WITNESS: It happened right over here in this
18 grass area by where those people standing on the porch
19 at.

20 Q Okay. And this is Defendant's 21.

21 You said, when the gun fell, it fell into kind of a
22 sandy area?

23 A Yes, ma'am.

24 Q Can you point on here where that is?

25 I know it's kind of hard to see.

Channen Ricks - Direct examination
By Ms. Zmroczek

1 A I could see on this picture but I can't see on that
2 picture.

3 Q Okay. Where can you see on this picture?

4 A Kind of happened like right up in here.

5 Q Okay. And I'm going to show you Defendant's 14.

6 Do you recognize that?

7 A Yes, ma'am.

8 Q What is that?

9 A In front of me and Kiara's door.

10 Q That's in front of the door?

11 A Yes, ma'am.

12 MS. ZMROCZEK: Your Honor, at this time I'd like to
13 move in Defendant's 13, 14, and 21.

14 SOLICITOR SAMPSON: Without objection.

15 THE COURT: It's admitted.

16 (WHEREUPON, Defendant's Exhibit Nos. 13, 14, and 21
17 were received into evidence at this time.)

18 Q Channen, I just have a few more questions for you.

19 when you were calling Kiara and expecting to have
20 birthday sex, when you got in the apartment, did you intend
21 on shooting anybody?

22 A No, ma'am.

23 Q When you left the apartment out the window to go to
24 your friend's apartment at 1408, did you intend on shooting
25 anybody?

Channen Ricks - Direct examination
By Ms. Zmroczek

1 A No, ma'am.

2 Q Why did you shoot?

3 A Because I was scared. It's my second time being
4 jumped. As I said before, I just didn't know what was
5 going on. It's like I just kind of felt like no matter
6 where I went somebody was, was gonna be there. I know
7 that I ran back into trouble again after trying to go
8 some place safe, make a call, and let somebody know what was
9 going on.

10 Q Were you in fear for your life?

11 A Yes, ma'am.

12 MS. ZMROCZEK: Please answer any questions that the
13 State may have.

14 THE COURT: Let's take a break. We'll come back.

15 SOLICITOR SAMPSON: Thank you, Your Honor.

16 THE COURT: Mr. Ricks, during this break, you should
17 not discuss your testimony with anyone including your
18 attorney. You've not concluded your testimony. So, it's
19 inappropriate for you to -- you're not supposed to talk
20 about it.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Let's take a---

23 MS. ZMROCZEK: And you can't talk to me.

24 THE COURT: Right.

25 So, let's take a break and we'll come back.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 (WHEREUPON, a short recess was taken at this time.)

2 THE COURT: Any cross?

3 MS. SAMPSON: Yes, Your Honor.

4 CROSS-EXAMINATION

5 BY SOLICITOR SAMPSON:

6 Q Mr. Ricks --

7 A Yes, ma'am.

8 Q -- you stated on direct that you got out of prison in
9 March of 2013?

10 A Yes, ma'am.

11 Q And you started dating Kiara almost immediately?

12 A Shortly after.

13 Q When did you start living with her?

14 A Maybe like---

15 THE COURT: I'm sorry. You're going to need to push
16 the microphone down so I can hear more clearly please.

17 THE WITNESS: Maybe about a month or two later.

18 Q So, you're saying you started living with her in March
19 or April of 2013, or April or May?

20 A Yes, ma'am.

21 Q Okay. And you lived with her continuously?

22 A Yes, ma'am.

23 Q Did she put you on the lease?

24 A No, ma'am.

25 Q And who gave you a key, the apartment manager?

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 A No, ma'am.
- 2 Q Who gave you a key?
- 3 A Kiara.
- 4 Q When did she give you that key?
- 5 A I don't know the exact month but wasn't too long
- 6 after.
- 7 Q Wasn't too long after.
- 8 You don't remember exactly?
- 9 A No. No, ma'am.
- 10 Q And, on direct, you stated that sometimes, when you two
- 11 would get into an argument, you would stay with your
- 12 mother?
- 13 A Yes, ma'am.
- 14 Q So, she didn't leave when you guys got in an argument.
- 15 You left.
- 16 A Yes, ma'am.
- 17 Q And moving to this date in May of 2014, you guys were
- 18 living together consistently?
- 19 A Yes, ma'am.
- 20 Q So, on May 20th, were you guys together?
- 21 A May 20th?
- 22 Q Yes, sir, of 2014.
- 23 A We probably were.
- 24 Q You probably were?
- 25 A Yes, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q So, four days prior to this incident, you were living
2 together?

3 A Yeah, we always stayed together but, like I said,
4 sometimes, when we'd argue, I would go to my mama house.

5 Q So, on May 20th, were you at your mother's house or at
6 Kiara's house?

7 A I don't exactly remember May 20th to be exact, ma'am.

8 Q Were you two fighting on May 20th of 2014?

9 A I don't recall.

10 Q Would seeing your text from that day remind you of
11 whether you two were getting along in May of 2014?

12 A It maybe would.

13 SOLICITOR SAMPSON: Beg the Court's indulgence.

14 (WHEREUPON, cell phone records were marked as State's
15 Exhibit No. 20 for identification purposes only at this
16 time.)

17 Q Okay. I'm gonna show you what's now been marked as
18 State's Exhibit No. 20.

19 Now, I believe you, and Ms. Zmroczek might have asked
20 you on direct, you've seen these phone records before,
21 correct?

22 A Some of them.

23 Q Okay. And take your time and look at those.

24 A (The witness complies.)

25 Q And your phone number back then was 363-1412, correct?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A Yes, ma'am.

2 Q Okay. And Kiara's phone number back then was 262-8421,
3 correct?

4 A Yes, ma'am.

5 Q Okay. Now, I'm gonna point you -- and now my question
6 to you was, around May 20th or May 21st, were you and Kiara
7 getting along or not getting along?

8 A I mean I told you I can't really recall the exact
9 date. We may have been. We may of not been.

10 Q So, you don't know whether you were staying at your
11 mother's or at her house on May---

12 A I was always staying at her house, ma'am.

13 Q That night, on May 20th, did you stay with your mother
14 or Kiara?

15 A I don't remember the exact date. You said if you show
16 me the texts that --

17 Q And I will.

18 A Can we---

19 Q On May 21st, were you staying with your mother or
20 Kiara?

21 A I don't remember the exact dates or what we was going
22 through at the time.

23 THE COURT: You need to speak up loudly.

24 Q You stated that you didn't know what you were going
25 through at the time?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A Yeah, if we were going through something, if, if it
2 came to a heated argument, then most likely I didn't stay
3 to keep from us, you know, getting physical with each other.

4 Q But you don't remember if, on that day -- on the 20th
5 and the 21st if you were?

6 A No, ma'am.

7 Q Okay. Now, I'm gonna point to you to a text, and these
8 aren't numbered, so I can't tell you the page number, but on
9 May 20th, 2014, at 11:13PM.

10 That what that says?

11 A Yes, ma'am.

12 Q It says that you received an incoming text, correct?

13 A Yes, ma'am.

14 Q And it's from Kiara, correct?

15 A Yes, ma'am.

16 Q And it says drop my car off and stay DF from round
17 me, correct?

18 A Yes, ma'am.

19 Q And your response is you trippin.

20 A Yes, ma'am.

21 Q Okay. She texts you no, you act just like a female.
22 Bye. Correct?

23 A Yes, ma'am.

24 Q If it ain't about my boy, ain't, excuse my
25 language, shit to talk about.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 That's what she texts you?

2 A Yes, ma'am.

3 Q What's the problem. Now you want me to come home.

4 That's her -- you back to her?

5 A Yes, ma'am.

6 Q So, you two -- would that be fair to say these are you
7 two not getting along?

8 A I mean we go through things that -- she most likely
9 didn't mean that. None of it.

10 Q She most likely didn't mean that?

11 A No, ma'am.

12 Q So, you're -- the next text is to a girl name Sheray,
13 correct?

14 A Yes, ma'am.

15 Q And you want to know why you don't hear from Sheray,
16 correct?

17 A Yes, ma'am.

18 Q And then you ask Sheray, damn, when you gone have
19 time for me, correct?

20 A Yes, ma'am.

21 Q And that's still during the time that you're living
22 with Kiara?

23 A Yes, ma'am.

24 Q Okay. And then we keep going, and Kiara again asks
25 for her car, correct?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A Yes, ma'am.

2 Q And this is again still on May 20th of 2014?

3 A Yes, ma'am.

4 Q And she tells you again I want my car and I want you
5 from round me, correct?

6 A Yes, ma'am.

7 Q All right. And so, y'all are or you're not getting
8 along on May 20th of 2014?

9 A We wasn't getting along.

10 Q Okay. What about on May -- so, that was May 20th.

11 So, on May 21st, have y'all made back up?

12 A I'm not sure.

13 Q Not sure.

14 So, on May 21st -- we're gonna keep going and you -- go
15 back to Kiara again. So, this is May 21st, 10:30 in the
16 morning.

17 A Yes, ma'am.

18 Q Okay.

19 THE COURT: I'm sorry. I can't hear you.

20 THE WITNESS: Yes, ma'am.

21 Q And she texts you -- this is her texting you. It says
22 incoming, correct?

23 A Yes, ma'am.

24 Q And she text you, bout WTF I got going on and damn
25 sure won't worry about you, correct?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A Yes, ma'am.

2 Q And then she continues to text you, damn if you go,
3 correct?

4 A Yes, ma'am.

5 Q You act just like a girl. I'm done with you cause
6 all you do is lie, dog, and that's lying gonna get a MF'er
7 hurt and it won't be me.

8 That's all from her, correct?

9 A Yes, ma'am.

10 Q And that's all on -- at 10:30 on May 21st?

11 A Yes, ma'am, 10:28.

12 Q And then later that day, she's asks you about buying
13 Pampers for Aiden, correct?

14 A Yes, ma'am.

15 Q And that's the child you guys have in common?

16 A Yes, ma'am.

17 Q All right. So, are y'all getting along or not getting
18 along on May 21st?

19 A We, we probably was on and off, man

20 Q Okay. So, you would call that being on and off with
21 her?

22 A Yes, ma'am, at the, at the time. She might have said
23 this. Then, in 15 minutes later, say something else.

24 That's just how she is.

25 Q And in that same day, you then text Vita, correct?

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 A Yes, ma'am.
- 2 Q And you ask Vita if she wants to come see you, correct?
- 3 A Yes, ma'am.
- 4 Q Okay. But you're getting along with Kiara and living
5 with her at this time?
- 6 A Yes, ma'am.
- 7 Q Okay. And then you and Kiara are again texting and
8 now we're later on the -- May 21st about someone looking in
9 your phone and she says I went through that MF'er myself?
- 10 A That's what I'm telling you. That's how -- she was
11 only able to go through my phone because I was there at the
12 apartment.
- 13 Q Okay. So, she's texting you about going through your
14 phone while she's at the apartment with you?
- 15 A No, I probably wasn't there at the moment.
- 16 Q Okay.
- 17 A But she probably was just saying, saying something
18 cause I left home again.
- 19 Q Okay. You left home again?
- 20 A Yeah, I was---
- 21 Q Correct.
- 22 A ---down the road.
- 23 Q Because, at seven o'clock, you text Vita saying you
24 want to see her, correct?
- 25 A Yes, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 Q All right. And this is all, again, on May 21st?
2 A Yes, ma'am.
3 Q Okay. So, how 'bout May 22nd?
4 Had y'all made up by then?
5 A Ma'am?
6 Q On May 22nd, had you-all made up?
7 A I'm really not sure that we---
8 Q You're not sure?
9 A Like I said, it's a bunch of on and off. As I said
10 once before, we, we went through some things.
11 Q Okay. So, you're not sure if, on May 22nd, y'all had
12 made up or not?
13 A Yeah, I'm really, I'm really not---
14 Q Okay. Well---
15 A ---not sure how, how she was really feeling with---
16 Q Well, on May 22nd, did you stay with your mom or at
17 Kiara's?
18 A Most likely I probably stayed with Kiara.
19 Q You think you stayed with Kiara.
20 All right. So, you think you were staying with Kiara
21 that night?
22 A I could have.
23 Q You could have or you did?
24 A I mean I'm not sure. I don't know what you basing
25 that on.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q I'm just asking you did you stay with her or not?

2 A I, I don't remember these, these dates. I, I
3 probably could have. When we was getting along, then I
4 stayed there. Some -- even when we didn't get along, I
5 stayed there. It just depends on, you know, how mad she
6 was.

7 Q So, if she was mad, you didn't stay at your own house?

8 A Yeah. Because I didn't want to get physical with her.
9 I didn't want it to escalate to something else.

10 Q Okay. All right. Now, on May 22nd, at 12:48AM, she
11 texts you, correct?

12 A May 22nd?

13 Yes, ma'am.

14 Q And she texts you where you at, correct, and your
15 response is home.

16 A Yes, ma'am.

17 Q And then she asks if you're okay and if you're still
18 coming, correct?

19 A Yes, ma'am.

20 Q And you ask her to come get you.

21 A Uh-huh. (Affirmative).

22 Q But didn't you tell her you were at home?

23 A (No audible response.)

24 THE COURT REPORTER: Is that a yes?

25 THE WITNESS: - Yes, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q So, were you at home or were you somewhere else?

2 A I don't, I don't remember what was going on. So, I, I
3 don't know. I could have been at my momma house or I could
4 have been at home and she could of been somewhere else.

5 Q But you don't know.

6 A I'm, I'm not sure what the situation was to say where I
7 was.

8 Q Oh, okay. You don't know what the situation was.

9 All right. So now we're moved onto -- I'm sorry.
10 We're now -- so, on the 22nd, I think you've already said
11 that you don't know whether y'all were getting along or not
12 and you don't know whether you stayed with your mom or at
13 Kiara's on the 22nd.

14 A Yes, ma'am.

15 Q How about the 23rd?

16 Were you staying with your momma on the 23rd or with
17 Kiara on the 23rd?

18 A I don't know where I stayed.

19 Q You don't know where you stayed.

20 Okay. And were you guys getting along or not getting
21 along?

22 A We could have been getting along. We may of not been.
23 But, like I said, like she never stayed mad at me. She
24 always told me to come home. So, that's what I did.

25 Q She never stayed mad at you.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 So, she never stayed mad at you, but still, on May
2 22nd, she's texting you about that you're -- you did
3 something stupid?

4 A No, she said you so stupid.

5 Q Because it starts with don't F'ing play with me,
6 correct?

7 A Yes, ma'am.

8 Q And then, then she said that you're stupid.

9 Is that correct?

10 A Yes, ma'am.

11 Q All right. And then y'all are going back and forth
12 about whether you should bring her her car.

13 A Yes, ma'am.

14 Q So, were you staying with her then and using her car or
15 using your mother's car or both?

16 A Both. I was, I was using both of they cars but I was
17 staying with Kiara.

18 Q Okay. So -- but y'all are getting along?

19 A Ma'am?

20 Q You're getting along and this is still -- now, we're
21 getting to the night of the 22nd.

22 Y'all still getting along?

23 A Like I said before, it just depends.

24 THE COURT: I'm, I'm sorry. I can't understand you.

25 THE WITNESS: I said, like that -- you know, like I

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 said once before, it just depended on, you know, how mad she
2 was but I never stayed away from home. She -- and if I did
3 go to my mama house, she would always tell me to come home.
4 So, that's what I did.
- 5 Q Okay.
- 6 A Exactly what she asked me to do, ma'am.
- 7 Q So, here, when she's saying yeah, F'ing, right,
8 Channen, lie too much, dog, she's okay with you?
- 9 A Yeah, that's how she talked.
- 10 Q That's how she talked.
- 11 Okay. She tells you she's coming to get her car in the
12 morning?
- 13 A Yes, ma'am.
- 14 Q And then she says keep lying and all my kids, I'm
15 gonna do something to you?
- 16 A Yes, ma'am.
- 17 Q But she's okay with you?
- 18 A Yes, ma'am.
- 19 Q Okay. And you tell her to -- and then you text this
20 person named Vita that you want her to come outside and see
21 you, correct?
- 22 A Yes, ma'am.
- 23 Q But, at the time, you're living with Kiara?
- 24 A Yes, ma'am.
- 25 Q Okay. Now, I think, on direct, you talked to Ms.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Zmroczek about how, at this time, you were in a relationship
2 with Kiara.

3 On the 23rd, 24th, 25th, leading up to this incident,
4 you were in a relationship with Kiara, correct?

5 A Yeah, we was in a, in a, a shaky relationship.

6 Q Shaky relationship.

7 But you lived with her?

8 A Yes, ma'am.

9 Q So, when you text that you really want a relationship
10 to Vita, that's at the same time you're in a relationship
11 with Kiara?

12 A Yes, ma'am.

13 Q And even Vita asks you, are you sure that's what you
14 want, correct?

15 A Yes, ma'am.

16 Q And you tell her yeah?

17 A No, ma'am.

18 Q You don't tell her yeah, but I want you to be my best
19 friend first. That's why I joke with you a lot.

20 A Oh, yeah. Yeah, I see that.

21 Q So, that's to Vita?

22 A Yes, ma'am.

23 Q Not to Kiara?

24 A No, ma'am.

25 Q And you even call Vita Bae, don't you?

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 A Yes, ma'am.
- 2 Q Okay. And she tells you yeah, I want the same thing as
- 3 well and that you all can work on that.
- 4 A Yes, ma'am.
- 5 Q And that's in the same time that you are in a
- 6 relationship with Kiara?
- 7 A Yes, ma'am.
- 8 Q And at the same time that you're living with Kiara?
- 9 A Yes, ma'am.
- 10 Q Okay. And you text Vita back. I'm talking about as
- 11 far as a relationship. I just want to make sure you
- 12 serious about it because, when I'm with someone, I put my
- 13 all into it.
- 14 A That's what she said.
- 15 Q That's what she said to you?
- 16 A Yes, ma'am.
- 17 Q Did you tell her you didn't want to have a relationship
- 18 with her, that you were in a relationship with Kiara?
- 19 A You said did I tell her --
- 20 Q Yes, sir.
- 21 A -- that I didn't want a relationship with her?
- 22 Q Did you tell Vita no, I don't want a relationship with
- 23 you because I'm in one with Kiara?
- 24 A No, ma'am.
- 25 Q Okay. And you, in fact, instead tell her, I'm not

Channen Ricks - Cross-examination
By Solicitor Sampson

1 playing games, long as you don't, 'cause I feel the same
2 way you do.

3 That's to Vita, correct?

4 A Yes, ma'am.

5 Q Okay. And that is all on May 23rd, correct?

6 A Yes, ma'am.

7 Q Did, at any time, on May 23rd or May 24th, did Kiara
8 put you on a block list so you couldn't text back and forth
9 or Facebook her or some -- at some point not get in touch
10 with her?

11 A Yes, ma'am, I, I had blocked her off my Facebook page.
12 So, I guess that was her way of getting back at me. You
13 know she---

14 Q And you tell to get -- to un -- to take that off,
15 right?

16 A Yes, ma'am, she would always do it. It wasn't just
17 on May 23rd.

18 Q Oh. So, y'all did this a lot?

19 A Yes, ma'am.

20 Q So, on the 23rd, are you staying with Kiara?

21 A Most likely.

22 Q Most likely.

23 So, then let's look at your text to her later on the
24 23rd at 2:30. She's asking if you still rolling round yo
25 bitch car, huh -- in your bitch car, right?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A Yes, ma'am.

2 Q And you tell her, man, get off my line. Man, I got my
3 own car, right?

4 A Yes, ma'am.

5 Q And y'all kind of go back and forth but y'all are
6 doing okay right then?

7 A I mean, she was, she was always accusing me of stuff.
8 So --.

9 Q But y'all are okay?

10 A Yeah, we always okay. I love her. She love me.

11 Q So, when she texts you at 2:57PM on May 23rd you ain't
12 shit, and your response is yo momma ain't shit, y'all are
13 all right?

14 A Yeah, we talk to each other like that.

15 Q Oh, okay. So, y'all -- but y'all are all right. Y'all
16 are so all right that you tell a girl named Hope, at 3:22,
17 that want -- want you to come over to my house. I'm here
18 alone.

19 A Yes, ma'am.

20 Q Okay. And she tells you she can't though, right?

21 A Yes, ma'am.

22 Q Okay. And you text Hope, on my kids, man, and my
23 mama, ain't, ain't gonna play no games. That's the only
24 way I can get it. That's to Hope.

25 A Yes, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q Uh-huh. (Affirmative).

2 That's while you're having a relationship with Kiara?

3 A Yeah. But that, that don't got, that don't got
4 nothing to do with a relationship or anything sexual.

5 Q Okay. And you text her, man, on my brother's grave, I
6 won't do no dumb shit. You still don't trust me, man.
7 That's to Hope.

8 Okay. All right. But you're okay with Kiara at this
9 time?

10 A Yes, ma'am. I mean yeah, we all right.

11 Q Y'all all right but, same day, at 4:39 on May 23rd, she
12 texts you I swear I got to buy, to buy Pampers and milk
13 myself. You won't see him for a whole fucking month and I
14 ain't playing.

15 A She say if but I always left money in the house. So,
16 whenever she called me complaining, I would just tell her
17 where the money at.

18 Q But y'all are okay?

19 A Yes.

20 THE COURT REPORTER: Is that a yes?

21 THE WITNESS: Yes, ma'am.

22 Q Okay. All right. So, on the 23rd, y'all are okay even
23 though you're texting back and forth like that?

24 A Yes, ma'am.

25 Q Okay. And then, even though y'all are okay, she tells

Channen Ricks - Cross-examination
By Solicitor Sampson

1 you, at 3:12, I'm gonna make you hate me. Believe me what
2 -- when I tell you. And you tell her too late.

3 A Yes, ma'am.

4 Q But y'all are okay?

5 A Yeah, she just text me all the time saying crazy stuff.
6 So, that's, that's how I make her mad.

7 Q Oh.

8 A That's gone on before.

9 Q So, you were trying to make her made?

10 A Yeah, cause she be saying all kind of stuff out of her
11 mouth.

12 Q And then you text her, do it, man. FU, sneaky ass.
13 Have fun, man. And she text you back, you da the sneaky one
14 'cause I ain't done shit yet.

15 But y'all are okay?

16 A It was probably getting a little heated right then.

17 Q Oh, getting a little heated right then.

18 So, were y'all staying together then because that's the
19 23rd?

20 A (No audible response.)

21 Q Are y'all staying together on the 23rd after that
22 text?

23 A Yes, ma'am, I live with her. That's where all my
24 clothes at.

25 Q That night, you stayed with her on the 23rd after that

Channen Ricks - Cross-examination
By Solicitor Sampson

1 text?

2 A I probably did.

3 Q what time did you get home on the 23rd?

4 A I don't know. I always come in in the wee hours.

5 That's another reason we always get into it.

6 Q And when you say the wee hours, what time?

7 A 2:00, 3:00, 4:00.

8 Q Were you working?

9 A No, ma'am.

10 Q You just hanging out?

11 A Yes, ma'am.

12 Q And y'all argued about that?

13 A I mean she wouldn't say nothing when I come in at
14 night, but, early, when I get up to leave the next morning,
15 then she'll start accusing me all over again. Say I don't
16 never stay home with her.

17 Q Did that happen on the 23rd and the morning of the
18 24th?

19 A I mean she didn't text me with it. She could of
20 said something before I left out the house.

21 Q She didn't text you on the 23rd till the morning of the
22 24th?

23 A I mean she didn't text me saying like -- cussing me
24 out or nothing like she usually do but she could---

25 Q She didn't?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A No. But she could -- I don't think so and -- but she
2 could of said something before I left out the house.

3 Q So, she didn't say anything to you---

4 A I'm not sure---

5 Q You're not sure now---

6 A ---if she said something.

7 Q Okay. So, at -- and we -- we're going now from May
8 23rd in the evening through May 24th in the morning,
9 correct?

10 That's what this page reflects?

11 A Yes, ma'am.

12 Q Okay. And at 2:39 in the morning, she text you, like
13 really, four dough [phonetic], Channen. You ain't shit,
14 bitch.

15 That's she -- her texting you, correct?

16 A Yes, ma'am.

17 Q Word. Probably some way looking in a bitch face.
18 But yo son ain't got no food at all. Get your life, bruh,
19 FR.

20 That's her to you?

21 A Yes, ma'am.

22 Q At 2:30 in the morning?

23 A Yes, ma'am.

24 Q But you just -- again, she's not cussing at you or
25 that is cussing at you?

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 A Yeah.
- 2 Q Okay. Yes, what?
- 3 A Yes, ma'am.
- 4 Q That -- I mean -- I meant yes, that's cussing with you
- 5 or no, it's not?
- 6 A Say is that cursing at me?
- 7 Q Uh-huh. (Affirmative).
- 8 A Yeah, she cuss all the time.
- 9 Q Okay. And that continues all the way the next --
- 10 through til 3:44.
- 11 A Yeah, she came and picked me up. We went to Wal-Mart
- 12 and got my son some milk. I was---
- 13 Q So, y'all are texting while you're at the wal-Mart?
- 14 A No, she came and picked me up from the club, the same
- 15 club, Torch.
- 16 Q Uh-huh. (Affirmative).
- 17 A And we went to Wal-Mart, on Forest Drive I believe,
- 18 got my son some milk.
- 19 Q And then where did you go?
- 20 A She took me back to the club and I told her to go back
- 21 home.
- 22 Q So, she comes and gets you, y'all go get Pampers, and
- 23 then she drops you back at the club, and y'all start texting
- 24 again?
- 25 A Yes, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q Okay. And she's still mad at you, correct?

2 A Yes, ma'am.

3 Q She's still cursing at you in those texts, correct?

4 A Yes, ma'am.

5 Q So, that night though you didn't stay in 'cause
6 you're at the club all night --

7 A Yes, ma'am.

8 Q -- on May 24th, the morning of May 24th, correct?

9 A Yes, ma'am.

10 Q Okay. So, now we're to the 24th, the day of the 24th
11 and everything with this incident happened on the 25th,
12 right, your birthday?

13 A Yes, ma'am.

14 Q Okay. Have y'all made up at this point?

15 A Like she always wait till I leave to start saying all
16 kind of stuff. Like, if I'm -- as long as I'm home, then
17 she happy. When I leave, then that's when all this start.

18 Q So, when did you get home?

19 A Probably came home about 4:00 or 5:00.

20 Q But at 4:00 or 5:00, you're home with Kiara?

21 A Yes, ma'am.

22 Q On the 24th?

23 A Yes, ma'am.

24 Q Okay. And then she's fine with you until later she
25 starts back up is what you're telling us today.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A Yeah, until Sonny come -- till my friend come get me,
2 until I get up and go round the corner with him. Then, you
3 know, she, she get mad at me again.

4 Q Okay. So, were you home when she's texting you at ten
5 o'clock on May 24th?

6 A Are you home?

7 A I probably walked 'round the corner.

8 Q So, when you walked around the corner, she starts
9 texting you and now she's mad at you although you just
10 walked around the corner?

11 A Yes, ma'am.

12 Q And you said -- okay. And when did you come back home
13 after going around the corner?

14 A I'm not sure.

15 Q How long were you gone?

16 A Probably all day.

17 Q All day.

18 Is that why she starts texting you again at one o'clock
19 in the afternoon?

20 A Most likely.

21 Q And she ask you, don't fuckin' hello me, dog. You
22 finished laying up, you want to text me, and I'm at the mall
23 to get his Pampers.

24 A No, she said -- she text me. She said you -- she
25 say don't F'ing hello me, dog---

Channen Ricks - Cross-examination
By Solicitor Sampson

1 MS. ZMROCZEK: I'm sorry. I can't hear you.

2 THE WITNESS: She said don't F'n hello me, Dog. You
3 finished laying up. You want to text. I'm by the mall.
4 You get his Pampers, Dog.

5 Q So, you're home and she's out.

6 Is that right?

7 A I probably was still in Richland village.

8 Q Okay. So, y'all went and got Pampers at 3:00 in the
9 morning and then she's now, at twelve o'clock, getting more
10 Pampers?

11 A We, we went and got milk.

12 Q You got milk at 3:00 in the morning and now she's
13 getting Pampers.

14 All right. Okay. But y'all were good?

15 A Yes, ma'am.

16 Q So, when do you go -- I believe, in direct, you said,
17 at some point, you're at someone's house when you decide
18 that you're gonna go out and celebrate your birthday.

19 A You said at what point?

20 Q Yes.

21 When did you leave Kiara's to go to, to somebody's
22 house?

23 A I left early that morning. I left home early that
24 morning. I got up and went down the road. She started
25 texting me saying all kind of stuff as usual. Most of the

Channen Ricks - Cross-examination
By Solicitor Sampson

1 time I just ignore her because she just say some stuff.

2 Q So, again, when did you get to the friend's house or
3 was it your mama's house?

4 where did you go?

5 A I was at my -- I was at my Godbrother and my
6 Godsister, they daddy house. They stay on the top of Shop
7 Road.

8 Q what are their names?

9 A Princess Epps and Sterling Epps.

10 Q Sterling Epps and Princess Epps?

11 A Yes, ma'am.

12 Q That's whose house you were at?

13 A They father's house.

14 Q Their father's house.

15 A Yeah.

16 Q Okay.

17 A Sterling Epps stay there with him.

18 Q How long were you there?

19 A I usually stay there for a period of time.

20 Q How long is a period of time?

21 A I can't say for sure how long it was but, during the
22 day, most of the day, that's where I'm at down the road.

23 Q So, you---

24 A Close by.

25 Q So, you were there most of the day on the 24th?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A Yes, ma'am, close by my momma house. It's right up the
2 street.

3 Q They're down the street from your mom's?

4 A Up the street.

5 Q Up the street.

6 Where does your mom live?

7 A On Walcott. On Shop Road.

8 Q By Shop Road?

9 A On Shop -- off Shop Road on Walcott.

10 Q And they live in that general area?

11 A They live at the top of the street, the top of
12 Walcott, the first house.

13 Q Okay. And I believe you said, on direct, at some point
14 Thomas called you and y'all decided to go hang out.

15 A Yes, ma'am, I was sitting on the porch.

16 Q He didn't come get you though, right?

17 A No, ma'am.

18 Q You met him at the club with your friends and he had
19 friends with him.

20 A Yes, ma'am.

21 Q Okay. And, at the club, there were no problems,
22 correct?

23 A No, ma'am.

24 Q And I believe, when you were talking to Ms. Zmroczek on
25 direct, you said you did not see Kiara that night.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 A No, ma'am, I didn't.
- 2 Q At all?
- 3 A No, ma'am.
- 4 Q You sure about that?
- 5 A Positive.
- 6 Q You didn't see her in a white dress?
- 7 A No, ma'am.
- 8 Q You didn't tell anybody you saw her in a white dress?
- 9 A Yes, I told somebody that I seen her in a white dress
- 10 but Kiara wasn't the person that I seen in a white dress.
- 11 Q So -- but you did tell somebody you saw Kiara that
- 12 night, correct?
- 13 A No, I didn't tell nobody that I seen her.
- 14 Q You didn't tell anybody that you saw Kiara that night?
- 15 A Bri, Bri was texting me from her phone, and I was
- 16 telling Brianna I seen you in a white dress.
- 17 Q And my question is did you tell anyone that you saw
- 18 Kiara at the club in a white dress?
- 19 A No, I didn't tell nobody I seen Kiara in the club in a
- 20 white dress.
- 21 Q Okay. And your testimony today is you didn't see
- 22 Kiara at all May 24th through the wee hours of May 25th?
- 23 A No, ma'am, I, I spoke to her through Facebook and
- 24 texts, I believe, but I, I didn't see her.
- 25 Q You never saw her?

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 A No, ma'am.
- 2 Q Never talked -- saw -- told anybody that you saw her?
- 3 A A text came -- I text Brianna phone and said I see
- 4 you -- I seen you in a white dress.
- 5 Q So, the only person you saw that you see -- that you
- 6 said you saw Kiara in a white dress is through that text
- 7 with Bri?
- 8 A Yes, ma'am, I never said anything else about it.
- 9 Q And I think you said your nickname is Black?
- 10 A Yes, ma'am.
- 11 Q But you also go by Boss?
- 12 A That's -- it's not my nickname but people call --
- 13 some people call me that.
- 14 Q So, you do go by Boss?
- 15 A No, to certain people, that's -- but my -- there was --
- 16 if somebody was to just see me, they wouldn't say Boss.
- 17 They would just call me Black.
- 18 Q So, your Facebook page doesn't call you Boss?
- 19 A Yeah, but that -- that's a Facebook name. That's not
- 20 what people call me.
- 21 Q All right. And on your text messages, it doesn't say
- 22 Boss?
- 23 A It say Boss Aiden.
- 24 Q So, it has both names, Boss and Aiden?
- 25 A No, that's my son name, Aiden.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 Q Well, who's Boss?
2 A Boss Aiden. Him.
3 Q Him.
4 So, the texts are his?
5 A No, ma'am.
6 Q Okay. They're your texts?
7 A Yes, ma'am.
8 Q And every one of your texts ends with Boss Aiden,
9 correct?
10 A That's my signature on my text message, ma'am.
11 Q So, the answer is yes, every text ends with Boss Aiden?
12 A Yes, ma'am.
13 Q All right. And, on direct, you said you only had three
14 drinks at the club?
15 A Yes, ma'am.
16 Q Did you go to another club after you left Torch?
17 A I, I drove down to, to the Underground but I didn't go
18 in.
19 Q Did you drink any while you were in the car?
20 A No, ma'am.
21 Q Did you drink any when you dropped off your friend?
22 A No, ma'am.
23 Q So, the only drinks you had were three the entire
24 night?
25 A Most likely the three..

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 Q Were you drunk?
- 2 A I wasn't drunk. I was high.
- 3 Q You were high.
- 4 How much you smoke?
- 5 A Smoke a lot.
- 6 Q How much?
- 7 A No specific amount. I just, just smoke.
- 8 Q Continuous?
- 9 Did you stop?
- 10 What time did you start?
- 11 A I mean I smoke all day.
- 12 Q Starting when?
- 13 A When I wake up.
- 14 Q And you smoke till you go to bed?
- 15 A Yes, ma'am.
- 16 Q And on the 24th through the 20 -- the morning of the
- 17 25th, is that what you did?
- 18 A Yes, ma'am.
- 19 Q And your testimony today is you weren't drunk?
- 20 A I mean I felt the liquor because, you know, I'm not a
- 21 drinker but I wouldn't consider myself to be drunk like
- 22 sloppy, falling over, or nothing like that.
- 23 Q Were you drunk, yes or no?
- 24 A I didn't consider myself to be.
- 25 Q Did you tell anyone that you were drunk that night?

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 A I probably did. I'm not sure.
- 2 Q You probably did or you didn't?
- 3 A I probably did. I'm not sure.
- 4 Q But you don't think you were drunk?
- 5 A I, I don't get drunk till I'm falling down is, is what
- 6 I'm saying. So --.
- 7 Q So, all you had was three drinks and you smoked a whole
- 8 lot of marijuana?
- 9 A Yeah, I smoke a lot of marijuana.
- 10 Q I believe you said you left somewhere between 4:00 and
- 11 4:30 to take your friend home?
- 12 A Yes, ma'am.
- 13 Q Okay. When you took your friend home, on direct, you
- 14 said your plan was to go home, correct?
- 15 A Yes, ma'am.
- 16 Q The plan at 4:00 to 4:30 was to go home?
- 17 A Yes, ma'am.
- 18 Q That's your testimony today?
- 19 A Yes, ma'am.
- 20 Q You had no other plans?
- 21 A To stop and get something to eat.
- 22 Q Stop and get something to eat.
- 23 No plans to go anywhere else?
- 24 A No.
- 25 Q No plans to go eat with anybody else.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 A Yeah, I was, I was texting another female.
2 Q You were texting another female?
3 A Yes, ma'am.
4 Q Who?
5 A My homeboy sister.
6 Q Name?
7 A Conda.
8 Q Conda?
9 A Yes, ma'am.
10 Q What were your plans with Conda?
11 A They was telling me that they was gonna go to
12 underground or whatever, and I was just telling her that,
13 you know, I was high. She got me riding around.
14 Q So, you told Conda you were high and she had you riding
15 around?
16 A Yes, ma'am.
17 Q well, what were your plans with Conda?
18 A I mean, I really, I really was just seeing if she
19 would leave with me.
20 Q You were seeing what?
21 A If she would leave with me.
22 Q Leave where?
23 A wherever she was.
24 Q She would leave wherever she was and what?
25 A And come see me.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q Come see you where?

2 A I was at the Waffle House.

3 Q So, you wanted her to come to the Waffle House and see
4 you?

5 A Yes, ma'am.

6 Q You had no plans to go anywhere and see Conda?

7 A I mean maybe if she would of came.

8 Q So, when did you decide to have Conda meet you at the
9 Waffle House?

10 A I was texting her while I was inside the club. Well,
11 she text my phone.

12 Q Was that before or after you took your friend home?

13 A That was before.

14 Q So, before you took your friend home, you're texting
15 Conda, and then you decide to go home, but then you decide
16 to go to Waffle House?

17 A Yeah. When I was coming back from down the street, I
18 was talking to Kiara the whole time.

19 Q You were talking to Kiara the whole time.

20 Texting or on the phone?

21 A Both.

22 Q Both?

23 A Yes, ma'am.

24 Q Okay. But when you dropped your friend off between
25 4:00 and 4:30, the plan was to go home?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A Yes, ma'am.

2 Q Not to stop at the Waffle House?

3 A No, I wasn't---

4 Q Not to meet Conda?

5 A None of it was a plan but, you know, it all just
6 happened.

7 Q Just happened?

8 A Just something that I, I was doing, yes, ma'am.

9 Q So, you had no plans to see any other girls that night?

10 A I seen a lot of people. It was my birthday.

11 Q You had no plans, after leaving the club, to go see any
12 other girl except for Kiara and then you decided to also
13 see Conda maybe at the Waffle House?

14 A You kind of confusing me.

15 Q On direct, you said the only plan you had was to go
16 see Kiara, correct?

17 A At -- when I left the club?

18 Q Yes, sir.

19 A My plan was to take my friend home and then I was
20 gonna go home.

21 Q Correct.

22 When you took off -- your friend off between 4:00 and
23 4:30, again, you said you were going to go home, correct?

24 A Yes, ma'am.

25 Q So, the only plan was to go to see Kiara at home,

Channen Ricks - Cross-examination
By Solicitor Sampson

1 correct?

2 A Yes, ma'am.

3 Q No other plans?

4 A No, ma'am.

5 Q Then, at some point, you decided well, I'll have Conda
6 meet me at the Waffle House?

7 A No, I was coming up Garners Ferry -- well, I was
8 approaching Garners Ferry and Kiara was calling my phone,
9 her and Bri, asking me where I was. And I was trying to
10 figure out where they was but my phone kept hanging up or
11 losing signal or one of their phones. And so, I just kind
12 of like was just riding around.

13 Q And sometime during this riding around, instead of
14 going straight home, you decide to ask Conda to meet you at
15 Waffle House?

16 A I told her I was at the Waffle House.

17 Q And you wanted her to come meet you?

18 A Yeah, I wanted to see her.

19 Q Okay. So, that's the only plans you made was initially
20 to go home to Kiara, and then, at some point, you decided to
21 go to the Waffle House and see if Conda maybe will meet you
22 there?

23 A Yes, ma'am, I went to---

24 Q No other plans?

25 A I went, I went to the Waffle House. I was gonna get

Channen Ricks - Cross-examination
By Solicitor Sampson

1 something to eat. And when I was talking to Kiara, I was
2 gonna ask her did she wanted me to get her something to eat
3 too but the phone kept hanging up. It was kind of raining
4 out the door. So, I just pulled up in the Waffle House
5 parking lot and Conda -- me and Conda was texting back and
6 forth, and I was talking to Kiara and Bri at the same time.

7 Q So, no plans to see anybody else?

8 A I mean, it was my birthday. I'm -- I---

9 Q Your---

10 MS. ZMROCZEK: I think this question's been asked and
11 answered several times.

12 SOLICITOR SAMPSON: It's been asked. I'm not sure it's
13 been answered but I can move on.

14 Q So, you're telling -- when did you decide that you were
15 going to go home with Kiara and have sex?

16 A We continued texting and it was raining. I didn't feel
17 like really riding nowhere else. So, I just said I'm gonna
18 go home. I left---

19 Q When was that?

20 A When I, when I left the Waffle House.

21 Q When you left the Waffle House?

22 A Yes, ma'am.

23 Q Did you tell Kiara hey, I'm on my way over?

24 A No, ma'am.

25 Q You didn't tell her?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A I don't have to tell her that. I stay there, ma'am.

2 Q My question is did you tell her I'm on the way over?

3 A No, ma'am.

4 Q No, you didn't and you said you decided that after
5 you went to the waffle House?

6 A Yeah, I was sitting in the waffle House parking lot
7 and it was kind of raining.

8 Q So, when you dropped your friend off, you hadn't
9 decided to go home or you had?

10 A I had decided -- I was going -- that was my initial
11 plan to go home, but when I was coming up Garners Ferry,
12 Kiara and Brianna called me and asked me where was I. They
13 said they was on Garners Ferry. I said I was on Garners
14 Ferry as well. Where y'all at?

15 We was kind of going back and forth. They joking on
16 the phone, asked me -- Bri was asking me do I have any
17 weed, a lot of small talk, and the phone kept hanging up
18 or losing signal. I'm not sure.

19 Q You still have your text messages up there, correct?

20 A Yes, ma'am.

21 Q When did you start first talking to Conda about maybe
22 seeing her that night?

23 A I seen her in the club.

24 Q You saw her in the club?

25 A Yeah.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q When did you start talking to her about seeing her
2 after leaving the club?

3 A I'm, I'm not sure.

4 Q You're not sure.

5 Was it before or after you dropped your friend off?

6 A That I was texting her?

7 Q Uh-huh. (Affirmative).

8 A It was before I dropped him off that I was texting
9 her. I was texting her while she was in the club.

10 Q You were texting her while you were both in the club
11 trying to figure out if she was gonna come see you?

12 A Yeah, I was sitting on the stage. She was like in the
13 poolroom side or something.

14 Q And you asked her if she would come to Kenny's house,
15 right?

16 A Yes, ma'am.

17 Q What were y'all gonna go to Kenny's house and do?

18 A Just chill.

19 Q Just chill. And her response was hell, no, my man.
20 cool with him. They be together

21 Correct?

22 A Yes, ma'am.

23 Q So -- but then you ask her if she's ready, right?

24 You text her and ask her if she's ready?

25 A Yes, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 Q Ready for what?
- 2 A To leave.
- 3 Q To leave what?
- 4 A The club.
- 5 Q So, you were gonna leave the club with her?
- 6 A No, I -- she already had done told me that they was
- 7 going to another club when they left Side Pocket. So, I was
- 8 just---
- 9 Q You were---
- 10 A So, I was just asking her was she ready to leave and go
- 11 to another -- a different club. I wasn't going to that
- 12 club, like I said.
- 13 Q And when did you make this decision with Kiara that
- 14 you were gonna come home and be with her and have sex?
- 15 A You said when did I make the decision with her?
- 16 Q Yeah.
- 17 when did you tell Kiara that?
- 18 A No, she told me that she was gonna come where I was.
- 19 She thought I was at my mama house but---
- 20 Q Kiara was gonna come to you, wherever you were, and
- 21 have sex with you?
- 22 That was the plan?
- 23 A Yes, ma'am.
- 24 Q At your mama's house?
- 25 A Yes, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q When did y'all make that?

2 A It wasn't a plan. She just texted out the blue. She
3 just text me and said that.

4 Q She texted you that she was gonna come have sex
5 with you at your mama's house?

6 A Yeah, we, we do it all the time.

7 Q You have the text messages right there in front of
8 you?

9 Beginning with -- you have the ones that go through
10 May 24th, and we're gonna give you the ones that go through
11 the 25th, which was State's -- Defense Exhibit No. 10.

12 Now, starting May 24th through May 25th, going all the
13 way to after the incident happens, take as long as you
14 want, and you tell me where you see a text from Kiara that
15 says you're gonna go -- she's gonna go to your mama's house
16 and have sex with you.

17 A She didn't say it in those exact words but that was --
18 that's the way she was---

19 Q Find me something close.

20 (Pause.)

21 A It's right here at 5/25/2014 at 4:29---

22 Q Where she says Boy, lay you---

23 A ---25AM.

24 Q ---where you were talking to Ms. Zmroczek about that
25 text?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A Yes, ma'am.

2 Q And that text says you at BB house. I'm bout to
3 come. Are you with yo bitch.

4 But that is when she was gonna come have sex with you,
5 when she's asking you if you're with a bitch?

6 A Yes, ma'am.

7 Q Okay. And so, the plan was though y'all were gonna
8 hook up -- at that point, the plan is for you two to hook
9 up, that you and Kiara, at that point, are gonna hook up
10 and have sex?

11 That's the plan?

12 A Yes, ma'am.

13 Q So, you then text Sheray, at 4:39, telling her you want
14 to see her, correct?

15 A I say wanted.

16 Q Wanted to see.

17 That's when you're supposed to be going to have sex
18 with Kiara?

19 A No, that was, that was -- I mean, it was a little while
20 after Kiara had text but I was just telling her that I
21 wanted to see her. I think she was supposed to be coming to
22 the club.

23 Q So, there's a -- I just want to get all the girls
24 straight that you texted with the night before when this
25 happened.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 There's Sheray who you were trying to see.

2 Is that correct?

3 A I wasn't trying to see her sexual. I just wanted to see
4 her for my birthday.

5 Q Just wanted to see her for your birthday.

6 Sheray?

7 A Yes, ma'am.

8 Q Kiara?

9 A Kiara.

10 Q Kiara, correct?

11 A Yes, ma'am.

12 Q Conda?

13 A Yes, ma'am.

14 Q Vita?

15 A No, ma'am, I don't -- I didn't -- we wasn't
16 conversating---

17 Q So, you weren't trying to see -- I'm sorry. I'm sorry.

18 So, you weren't trying to see Vita?

19 How about Ceira, or as you call her Bird?

20 A She came to the club.

21 Q So, you were trying to see her though afterwards,
22 weren't you?

23 A No, they, they was trying to see me. They, they came
24 to the club. They knew it was my birthday. They knew I
25 posted on Facebook that I was going to Side Pocket. So,

Channen Ricks - Cross-examination
By Solicitor Sampson

1 they all came to the club to see me.

2 Q well, let's talk about Ceira a little bit.

3 Ceira, you call her Bird, correct?

4 A Yes, ma'am.

5 Q So, your testimony today is you only saw her at the
6 club, you weren't trying to see her after the club?

7 A She said that she was going to her homegirl house. She
8 wanted me to come over there but I said I wasn't going all
9 the way over there.

10 Q You weren't trying to see her, that's your testimony
11 today?

12 A I seen her already in the club.

13 Q When you left the club, you weren't trying to see her?

14 A She wanted me to come see her but I told her I wasn't
15 coming on Broad River.

16 Q So, you weren't trying to see her is your testimony
17 today.

18 A I mean, I'm not---

19 MS. ZMROCZEK: Your Honor---

20 A ---understanding which way you trying to say that.

21 MS. ZMROCZEK: My objection is the relevance to, to, to
22 where we're going. I, I understand that she's asking about
23 the text messages but I'm just wondering what's the
24 relevance to why we're here.

25 SOLICITOR SAMPSON: Part of what she is stating or what

Channen Ricks - Cross-examination
By Solicitor Sampson

1 they've stated is that, that the plans were for him to go
2 and have sex with his girlfriend at her house where they
3 lived together. I'm trying to show that that actually
4 wasn't the plan but I have to lay some foundation before I
5 can go any further.

6 THE COURT: I've given you some leeway but, you know,
7 it's been an hour or so into it. So --.

8 SOLICITOR SAMPSON: I can get a little closer.

9 Q Sir, your testimony is you were not going to see her
10 after leaving the club?

11 A I told you once before, ma'am, she asked me to come to
12 her friend house on Broad River, and I explained to her
13 that I was not coming on Broad River Road.

14 Q Okay. You never told her ever that you were gonna go
15 see her that night?

16 A I seen her at the club. She told me she was gonna
17 come to the club and see me.

18 Q After leaving the club, did you ever tell her that you
19 were going to go see her ever?

20 A Not that I recall.

21 Q Have you ever told her that you would -- were supposed
22 to be with her instead of Kiara that night?

23 A You said what?

24 Q Have you ever told Bird or said to Bird that you were
25 supposed to be with her instead of Kiara that night?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A I said to her -- I probably said to her that I should
2 have came with you. I never told her that---

3 Q You never told her that?

4 A I said I probably have told her that I should have
5 been with you.

6 Q I'm gonna move this box. I just can't see.

7 So, you went home but you didn't tell Kiara for sure
8 you were coming home. She just kept texting, asking where
9 you were.

10 A Yeah, and she was saying -- basically, saying that
11 she was gonna come to my mama house but I wasn't there.
12 That's was the -- that was the reason for me keep calling
13 back and forth.

14 Q And I believe you stated, on direct, that at 5:18 is
15 when you were on Universal?

16 A I was turning on Universal, yes, ma'am.

17 Q Were you turning off Universal onto to Burdell or
18 turning onto Universal?

19 A I was turning on Universal Drive by the Hardee's.

20 Q At 5:18?

21 A Yeah, about that time, yes, ma'am.

22 Q And at 5:18, are you calling her?

23 A Yes, ma'am.

24 Q Have you called her before 5:18?

25 A Did I talk to her before 5:18?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q Yes, sir.

2 A Yes, ma'am, several times.

3 Q Several times.

4 Did you actually get her or where they -- the calls
5 being dropped like you were talking about before?

6 A I mean I spoke with her several times but, like I
7 said -- like I mentioned, the calls, you know, kept
8 dropping or they kept hanging up the phone. I'm not really
9 sure what the complication was. You know, I don't have a
10 smart phone. So, I know my phone is not all that expensive.
11 So, it could have been something with the signal on my phone
12 or it could have been something with her phone. I'm really
13 not sure where the complication came in.

14 Q I'm going to show you what was previously marked as
15 State's Exhibit No. 8.

16 Okay. And I believe, on direct, you said -- and before
17 I get started, can you see this?

18 A Yes, ma'am.

19 Q Do you recognize what it is?

20 A Yes, ma'am.

21 Q I need you to say it loud.

22 A Yes, ma'am.

23 Q What is it?

24 A It's Richland Village Apartment.

25 Q And this is the apartment complex we've been talking

Channen Ricks - Cross-examination
By Solicitor Sampson

1 about, correct?

2 A Yes, ma'am.

3 Q Now, Kiara stays in Building 5, correct?

4 A Yes, ma'am.

5 Q Okay. And you said that night, when you drove up, she
6 was parked in her regular spot?

7 A Yes, ma'am.

8 Q which of these is her regular spot?

9 A That -- it's like a handicapped parking spot. Then
10 it's two other parking spots, which is right in front of
11 the apartment where we stay.

12 Q So, one of these two?

13 A Yes, ma'am.

14 Q I'm just gonna put this.

15 So, that's where you're talking about, one of those
16 two?

17 A Yes, ma'am.

18 Q Where did you park?

19 A On the opposite side where I always park.

20 Q When you say opposite side, do you mean this side or---

21 A Yes, ma'am, the -- on the side right there.

22 Q So, you were over here somewhere?

23 A Yes, ma'am.

24 Q And this is Kiara's house and I believe Ms. Zmroczek
25 already went over with you a diagram?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 (Pause.)

2 Q And this -- on this, on this diagram, it'd be like
3 this, correct?

4 The door is right here?

5 A Yes, ma'am, like somewhere -- I can't really be exact
6 on that, on that board right there.

7 Q And your child's bedroom would be -- the window to
8 your -- the child -- to the children's bedroom and the
9 front door -- and the front window face the same way,
10 correct?

11 A Yes, ma'am.

12 Q Towards the parking lot?

13 A Yes, ma'am.

14 Q Not over here where you were parked, correct?

15 A No, ma'am.

16 Q So, you parked here and I think you said, on direct,
17 that you stayed there a few minutes --

18 A I stayed---

19 Q -- or a minute?

20 A Yeah, I stayed in the car for about a minute before
21 getting---

22 Q How come?

23 A Ma'am?

24 Q How come?

25 A It was raining. That's the only reason.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q That's the only reason?

2 A Yes, ma'am.

3 Q And you say, once you got in, a fight started, correct?

4 A Ma'am?

5 Q Once you got -- once you finally got in the door, a
6 fight started.

7 A Yes, ma'am.

8 Q A struggle started?

9 A Yes, ma'am.

10 Q And today you said, at some point, you could see that
11 somebody had a gun?

12 A Yes, ma'am.

13 Q Could you see what they had on?

14 A No, ma'am.

15 Q Could you see if one had on a shirt and one didn't?

16 A I really didn't pay that any attention.

17 Q So, you couldn't see it or you didn't pay it attention?

18 A I really didn't pay it attention.

19 Q And you said you didn't know who these people were?

20 A No, ma'am.

21 Q So, you didn't hear anybody tell you hey, it's me,
22 Thomas?

23 A No, ma'am.

24 Q You didn't hear anybody tell you hey, that's my cousin,
25 Thomas?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A No, ma'am.

2 Q Okay. And I believe your testimony today was that
3 some -- at some point, a window got broken?

4 A Yes, ma'am, during the---

5 Q You didn't---

6 A ---fight.

7 Q I'm sorry, what?

8 A During the fight, yes, ma'am.

9 Q You didn't break that window on purpose?

10 A No, ma'am.

11 Q And you stated today that you immediately were scared
12 for Kiara, yourself, and the children?

13 A Yes, ma'am.

14 Q She never said anything to you?

15 A She was just yelling.

16 Q She's just yelling?

17 A Yeah.

18 Q She didn't start yelling to you that's my cousin?

19 A No, ma'am.

20 Q She didn't yell to you that's Thomas?

21 A No, ma'am.

22 Q She didn't yell to you I'm sorry for doing this?

23 A Once we were in the, in the bedroom, while the fight
24 was going on, it was just me and -- it was me and her in the
25 bedroom when she said that.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 Q And you never said to her I don't know how I should
2 feel about you doing this on my birthday?
- 3 A Not that I recall.
- 4 Q You can't recall saying that or you didn't say it?
- 5 A No, ma'am, I'm, I'm not sure if I said that or not.
- 6 Q And you don't remember saying I can't believe you're
7 here with my baby's mama?
- 8 A No, ma'am.
- 9 Q Did you say that?
- 10 A No, ma'am.
- 11 Q And you were able -- I think your -- what you said on
12 direct is y'all had this fight and you're able to get away
13 from them?
- 14 A Get -- I mean, what -- what you mean?
- 15 Q You have a fight and you're able to get away and go
16 into the other room.
- 17 A Yes, ma'am.
- 18 Q And it's just Kiara in the other room?
- 19 A That's all I could see. It was -- the light was off
20 and it was dark.
- 21 Q It's a small room, right?
- 22 So, you didn't see Xaviera?
- 23 A No, ma'am.
- 24 Q You didn't see Brianna?
- 25 A No, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q You didn't see the kids?

2 A No.

3 Q You just saw Kiara?

4 A Yeah, I was standing face-to-face with her. I knew it
5 had to be somebody in the room because she was yelling and
6 screaming.

7 Q Uh-huh. (Affirmative).

8 Who had the gun at this point?

9 A One of them.

10 Q One of them had the gun?

11 A Yes, ma'am.

12 Q Did they leave?

13 A Obviously they did.

14 Q Because what happened then?

15 A Because while I'm talking to Kiara, she's telling me
16 that, you know, baby, I'm sorry, I'm sorry, I'm sorry. And
17 I'm like trying to figure out what's going on.

18 Q Uh-huh. (Affirmative).

19 A What's going on? What's going on? You know, she
20 trying to hug me. I guess she---

21 Q She tried to hug you?

22 A Yeah, I guess she like real emotional at the time. I
23 didn't know what was going on. So, when I went to walk out
24 the room, somebody came to the door as I was walking out and
25 shot a gun.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 Q They just shoot a gun?
- 2 A Yes, ma'am.
- 3 Q Nothing's going on at this point. They just shoot the
- 4 gun.
- 5 A I was talking to Kiara, walking away from her.
- 6 Q There's no fighting?
- 7 A No, ma'am.
- 8 Q Nobody's arguing with them?
- 9 A No, ma'am.
- 10 Q They just shoot the gun?
- 11 A Yes, ma'am.
- 12 Q All right. And then they leave?
- 13 A No, then we get in another scuffle.
- 14 Q You get in another scuffle?
- 15 A Yes, ma'am.
- 16 Q And you manage to get the gun?
- 17 A Yes, ma'am.
- 18 Q And then they leave?
- 19 A Yes, ma'am.
- 20 Q And I think your testimony today was one ran through
- 21 the front door and one jumped out the window?
- 22 A Yes, ma'am.
- 23 Q They run past you to jump out the window?
- 24 A No.
- 25 Q Well, where are you?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A I was -- like how the, how the living room is, the
2 hallway and the living room, it's very little space
3 in-between it.

4 Q Show me where you are on this diagram when he runs
5 past you to jump out the window.

6 A It was like right here somewhere. I'm not really sure
7 if the -- if the chairs were set up. This chair could have
8 been over here --

9 Q Uh-huh. (Affirmative).

10 A -- at the time. I'm not really sure where the chairs
11 was but we was like right here scuffling.

12 Q So, you're right there scuffling. You get the gun.
13 One person goes out this front door right here and this
14 person goes around you --

15 A No.

16 Q -- through that bedroom?

17 A Somebody -- he was behind---

18 Q So, the person you're wrestling with isn't the one that
19 jumped out the window?

20 A No, ma'am.

21 Q Okay. After they leave, what happens?

22 A After they leave, I'm in the bedroom, me and Kiara's
23 bedroom, and I got my phone out to use the phone to call
24 somebody to let somebody know what was going on.

25 Q Did you call?

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 A No, my phone wasn't getting any signal. It was very,
2 very hard to pick up signal in, in that apartment.
- 3 Q So, you couldn't dial not one single number?
- 4 A No, ma'am, not inside that apartment.
- 5 Q Did you step outside and try to call somebody?
- 6 A No, ma'am.
- 7 Q Okay. Where's Kiara, Brianna, Xaviera, and the kids?
- 8 A They must have left.
- 9 Q Did you not see them leave?
- 10 A No, ma'am.
- 11 Q You stayed in the apartment, they left, and you didn't
12 see them leave?
- 13 A I was in the room.
- 14 Q Was the door shut?
- 15 A No, I --.
- 16 Q Which room were you in?
- 17 A Me and Kiara's bedroom.
- 18 Q So, you're in the room and they leave and you don't see
19 them leave?
- 20 A I was trying to use the phone.
- 21 Q Okay. You're trying to -- but you cannot manage to
22 dial not one single time?
- 23 A No, my phone wouldn't let me dial out. As I explained,
24 it's very hard to pick up signal in that apartment.
- 25 Q So, from 5:18 until 5:32, you don't make a single call,

Channen Ricks - Cross-examination
By Solicitor Sampson

1 correct?

2 A You said from 5:18 to 5:32?

3 Q Correct, till you call 9-1-1. You're not able to get
4 your phone to work,

5 A Yeah, my phone, it wasn't working.

6 Q But you got a call from your mom?

7 A Yeah, that was after I was outside when my mom called
8 me.

9 Q So, your phone was working?

10 A Outside. In the---

11 Q Outside your phone was working?

12 A In the apartment, I was trying to dial somebody number
13 and it wouldn't let me.

14 Q Uh-huh. (Affirmative).

15 A Calling---

16 Q But your mother was able to reach you?

17 A Yes, ma'am.

18 Q And, at that point, you decide to go to somebody's
19 house?

20 A Yes, ma'am.

21 Q You don't get in your car?

22 A No, ma'am.

23 Q Okay. How did you get -- and you go out the back
24 bedroom?

25 A Yes, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 Q Which is right here?
- 2 A Yes, ma'am.
- 3 SOLICITOR SAMPSON: And can he -- Barefoot, I need him
- 4 to step down.
- 5 A (The witness comes down from the stand.)
- 6 Q Were you -- did you jump out this window?
- 7 A Yes, ma'am.
- 8 Q I need you to speak up.
- 9 A Yes, ma'am.
- 10 Q Where do you -- I want you to draw where you end up in
- 11 the confrontation the second time.
- 12 A (The witness complies.)
- 13 Q And so, the scuffle that you guys had is right here
- 14 Can you circle where it is for me?
- 15 A In this area.
- 16 Q Can you circle it?
- 17 A (The witness complies.)
- 18 Q Okay. And you were trying to go here?
- 19 A Yes, ma'am.
- 20 Q And after the scuffle, you -- I believe you said, on
- 21 direct, you're able to get the gun?
- 22 A Yes, ma'am.
- 23 Q Okay. This person who has this scuffle with you, they
- 24 don't say anything to you?
- 25 A No, they was calling. He was just saying Trav, Trav.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q But he didn't say anything to you?

2 A No, but he rushed me.

3 Q He rushed you?

4 A Yes, ma'am.

5 Q Drop the gun. You pick it up.

6 Do you immediately shoot him?

7 A Yes, ma'am.

8 Q Immediately, while you're still right here?

9 A Yes, ma'am.

10 Q And then he ends up where?

11 A I guess he was right -- ran over there --

12 Q Uh-huh. (Affirmative).

13 A -- somewhere.

14 THE COURT REPORTER: I'm sorry?

15 SOLICITOR SAMPSON: He ran over here somewhere.

16 THE WITNESS: He ran over there somewhere.

17 Q And ends up right here?

18 A Somewhere in there, in that area right there.

19 Q Okay. Then where do you go?

20 A I came out---

21 Q I understand you went and looked at him, but after you
22 look at him and you leave, where do you go?

23 A I, I mean -- I had to go behind here---

24 Q You've got to speak up.

25 THE COURT: I'm sorry. I can't hear you.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 THE WITNESS: I said I went between here -- it's like
2 a little gazebo---

3 Q Uh-huh. (Affirmative).

4 A ---over here somewhere and I ran past it, and I came
5 out right here at my car.

6 Q You sure that's the way you went?

7 A Yes, ma'am.

8 Q You didn't go around there?

9 A Around this building?

10 Q Yes, sir.

11 A No, ma'am.

12 Q So, your testimony today is you did not go running
13 through there?

14 A No.

15 Q Okay. And you go there -- you didn't go straight here
16 and just straight to your car?

17 A You say did I -- why didn't I go straight here and
18 straight to my car?

19 Q Yeah.

20 A Because it was -- what made me go out the window was
21 because, as I was walking---

22 Q You can get back in your chair.

23 A (The witness complies.)

24 Q So, I'm gonna stop you just cause of the building
25 numbers.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 So, you're in front of Building 14 and your testimony
2 today is you run past Building 8, through here, through
3 between 8 and 7, all the way up to the top, past
4 Building 2, and then back down between the office and
5 Building 4 to your car?

6 A Yes, ma'am.

7 Q And my question is, when you leave right here, how
8 come you don't just go straight to your car?

9 A Because I, I, I just didn't think to run that way. I
10 just ran.

11 Q You just ran around?

12 A Yes, ma'am.

13 Q Okay. And then you leave?

14 A Yes, ma'am.

15 Q And you don't try to make any more calls while you're
16 at the apartment complex?

17 A I'm not sure.

18 Q And you don't call 9-1-1 til after your mama calls you
19 and tells you to call 9-1-1?

20 A I got in the car and I think my phone was ringing and I
21 answered it. And my mama was asking me what's going on,
22 what's going on. And I was just telling her that, you know,
23 somebody tried to kill me and she---

24 Q And then you call 9-1-1?

25 A Yes, ma'am.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q Tell them your name?

2 A I'm not sure if I told them my name or not. I really
3 don't remember the, the 9-1-1 call like that.

4 Q Did you tell them where you were?

5 A I think I did.

6 Q Did you tell them where to come find you?

7 A I didn't tell them where to come find me.

8 Q And, at some point, you get disconnected.

9 They have to call you back?

10 A Yes, ma'am.

11 Q When they called you back, did you tell them then?

12 A I'm not sure. I, I was really crying. You know, I was
13 in a state of confusion.

14 Q Did you tell them that you just shot somebody?

15 A No, I believe -- I think she asked something around
16 the lines of do she need to send some help.

17 Q Did you tell her to send you some help?

18 A She didn't say me. She just said do I need to send
19 some help.

20 Q Didn't she ask you where you were?

21 A I'm not -- I can't remember if she asked me where I
22 was or not.

23 Q Did she not ask you where you were and ask you and
24 you said an abandoned building?

25 A I said an abandoned house. There was---

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q So, you lied to her?

2 A Yes, ma'am.

3 Q And she asked to speak to somebody else because she
4 could hear them in the background but you tell her it's a
5 TV, correct?

6 A Yes, ma'am.

7 Q But that was a lie?

8 A It was a TV. It was a TV on in the house at the time.

9 Q TV on.

10 You weren't with anybody?

11 A Yeah, I was at my cousin house.

12 Q So, when she asked you is there somebody else you can
13 talk to and you tell her no, that's a lie?

14 A I don't, I don't recall if she asked me if there was
15 somebody else that I could talk to or not.

16 Q You don't recall?

17 A No, ma'am, I really don't recall, you know, our
18 conversation. I don't recall what we said between us. You
19 know, the only thing that I could really remember is she
20 did ask me did she need to send help and I said yes.

21 Q You told her to send somebody to Richland Village,
22 correct?

23 A I don't know if I said those exact words but I know
24 she asked me did she need to send help and I said yes.

25 MS. ZMROCZEK: Your Honor, I just want to make sure

Channen Ricks - Cross-examination
By Solicitor Sampson

1 that -- I understand that -- I, I, I understand that she's
2 gonna play the 9-1-1 call. I just want to make sure that
3 the whole thing gets played.

4 Q So, again, I just want to be clear. You stated that
5 you called 9-1-1.

6 You didn't give them your name?

7 A I could have. I'm, I'm, I'm really not sure if I
8 said my name or not, ma'am.

9 Q And you definitely lied when you told her you were in
10 an abandoned building?

11 A Yes, ma'am.

12 Q And you don't remember whether she asked you or not if
13 you needed help?

14 A I told you she asked me did I, did I -- did she need to
15 send help and I said yes.

16 Q Did you tell her where you were in order for her to
17 send you help?

18 A No, ma'am, she didn't ask. She just said -- she wasn't
19 specific about, you know, where -- where I was, did I need
20 help. She just -- I could just remember her saying, you
21 know, did, did she need to send help. That's about as much
22 as I can remember about the phone call. She asked me that
23 and she was just basically saying calm down. Do you need
24 help. I don't recall if she ever asked me my name or none
25 of that.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q And I'm gonna steal your microphone for a minute.

2 (WHEREUPON, a portion of the 9-1-1 call was played for
3 the Court at this time.)

4 Q Is that you?

5 A I didn't really hear it.

6 (WHEREUPON, a portion of the 9-1-1 call was played for
7 the Court at this time.)

8 Q Is that you?

9 A Yes, ma'am.

10 Q And you tell her there's nobody there, just you?

11 A I can't hear what I said to be honest.

12 Q You can't hear what you said.

13 You listened to this before with Ms. Zmroczek or never?

14 A This is my first time hearing it.

15 Q Oh, well, we'll start over.

16 (WHEREUPON, a portion of the 9-1-1 call was played for
17 the Court at this time.)

18 Q She asks you is there anybody else you can speak with,
19 correct?

20 A Yes, ma'am.

21 MS. ZMROCZEK: Your Honor, if, if -- he -- I, I
22 have not played this call for him cause I can't play it at
23 the jail. And so, if she would allow him, maybe, the
24 opportunity to hear the whole thing before she keeps
25 stopping it and---

Channen Ricks - Cross-examination
By Solicitor Sampson

1 SOLICITOR SAMPSON: I have---

2 MS. ZMROCZEK: ---asking questions it might go a little
3 smoother.

4 SOLICITOR SAMPSON: I can do that.

5 (WHEREUPON, the entire 9-1-1 call was played for the
6 Court at this time.)

7 Q So, again -- I'm sorry.

8 You don't tell her where you are?

9 Yes or no.

10 A No, ma'am.

11 Q You don't tell her that you are with someone.

12 In fact, you tell her that you're not with someone,
13 correct?

14 A Yes, ma'am.

15 Q And that was a lie?

16 A Yes, it was.

17 Q You told her you were in an abandoned building,
18 correct?

19 A Yes, ma'am.

20 Q And that was a lie?

21 A Yes, ma'am.

22 Q You didn't tell her you shot anybody?

23 A No, ma'am.

24 Q Didn't tell her that you left somebody laying outside
25 of Apartment 8?

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A No, ma'am.

2 Q You didn't tell her that you shot Thomas Pauling?

3 A No, ma'am.

4 Q And you knew that at that time, didn't you?

5 A Yes, ma'am, I did.

6 Q Now, after you call 9-1-1, you don't go to the
7 Sheriff's Department, do you?

8 A No, ma'am.

9 Q After you call 9-1-1, 12 hours later, you don't go to
10 the Sheriff's Department and tell them what happened?

11 A You said after I called them 12 hours later?

12 Q Sure.

13 Twelve hours later, you don't turn yourself in?

14 A No, ma'am.

15 Q After speaking to your mother and all your friends,
16 it's not for an entire day that you turn yourself in,
17 correct?

18 A Yes, ma'am.

19 Q And I believe you said, on direct, that you left the
20 gun at somebody's house?

21 A Yes, ma'am.

22 Q Whose house?

23 A Kenny.

24 Q Who?

25 A Kenny.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q So, you left the gun at Kenny's house?

2 A Yes, ma'am.

3 Q Does Kenny have a last name?

4 A McFadden. McFadden.

5 Q Did you ever tell Investigator Johnson that you left
6 the gun at Kenny McFadden's house?

7 A Ma'am?

8 Q Did you ever tell Investigator Johnson, when you spoke
9 with him on May 26th, that you left the gun at Kenny
10 McFadden's house?

11 A No, ma'am.

12 Q In fact, didn't you tell him you didn't know where you
13 left the gun?

14 A We never spoke about a gun.

15 Q You never spoke about a gun.

16 So, you never told him that?

17 A No, ma'am.

18 Q Okay. And your testimony today --.

19 (Pause.)

20 Q You've never said to anyone that you wouldn't have
21 gone to Kiara's house if you had gone with Sierra?

22 A You said what?

23 Q That night.

24 A Did I tell somebody that?

25 Q Yes.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 A When you talking about?

2 Q Did you tell your mother that, on May 27th, while at
3 the detention center?

4 A I possibly could have.

5 Q You possibly could or you did?

6 A I'm not sure. I don't remember the phone call.

7 MS. ZMROCZEK: Your Honor, may we approach?

8 Q I can give you the date and the time.

9 THE COURT: Yes, ma'am.

10 (WHEREUPON, a bench conference was held at this time.)

11 THE COURT: And anything else that y'all have that you
12 haven't already given to her.

13 SOLICITOR SAMPSON: Can I---

14 THE COURT: Even if it came from another source. I
15 don't care if it came directly from the Sheriff's Department
16 or whether it came directly from any other place, if you
17 have a copy of it, it should have been produced as part of
18 -- part of the discovery.

19 SOLICITOR SAMPSON: And I will say this, Your Honor,
20 until -- he has never stated anything. So, for all I know,
21 his testimony was gonna be exactly what he said. I don't
22 know. He's never said anything. So, until we're here---

23 THE COURT: No, that's not -- that's not---

24 SOLICITOR SAMPSON: I understand.

25 THE COURT: That's not the issue. The issue is when --

Channen Ricks - Cross-examination
By Solicitor Sampson

1 when the State turns over information, it's the
2 solicitor's responsibility to make sure it's turned over.
3 whatever is in the Solicitor's Office gets turned over,
4 despite the fact that it may come from some other source.
5 If she subpoenas the Sheriff's Department, it doesn't
6 relieve the Solicitor's Office from turning it over. If
7 she subpoenas the jail, it doesn't, it doesn't relieve the
8 -- the Solicitor's Office from turning over the information
9 that the Solicitor's Office has in its possession.

10 SOLICITOR SAMPSON: I understand.

11 THE COURT: Just because she can get it from some
12 other source does not mean that the Solicitor's Office does
13 not have a duty and responsibility to turn it over if it's
14 been requested. And if it's part of the discovery, and
15 that's what you turn over, then that's -- that -- part of
16 that information should be turned over regardless of
17 whether, whether you know there's another copy from some
18 other source.

19 SOLICITOR SAMPSON: I understand.

20 THE COURT: You can move onto your next line of
21 questioning.

22 SOLICITOR SAMPSON: Can I lay the foundation before --
23 I won't say whether he made the call or any---

24 THE COURT: No. Move onto your next line of
25 questioning.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q In the beginning, when this first happened, did you
2 ever talk to Investigator Johnson?

3 A I made contact with him after my mama gave me his
4 number.

5 Q And when you went to the Sheriff's Department, you
6 spoke with him again, correct?

7 A Yes, ma'am.

8 Q Did you ever tell him that you shot in self-defense?

9 A No, ma'am. No, ma'am, I never said nothing to them.

10 Q You never said that.

11 Did you tell him that your plan was to go home with
12 Kiara that night?

13 A Once again, ma'am, I've said nothing to him.

14 THE COURT: I'm sorry. You need to speak up. I can't
15 understand you.

16 THE WITNESS: I said no, ma'am, I never spoke with
17 him. I never talked to him.

18 Q You, you never talked to him at all?

19 A Yeah, I spoke to him but I never told him -- we never
20 went into any detail because he had already said that he was
21 charging me with murder.

22 Q So, let me -- so, when you go to headquarters and he
23 takes you into his area, you don't talk to him at all?

24 A I mean he asked me how I was doing and stuff like
25 that.

Channen Ricks - Cross-examination
By Solicitor Sampson

1 Q Did he go over your advice of rights with you?

2 A Yeah, he, he allowed me to sign the paper.

3 Q So, he did ask you if you wanted to speak with him.

4 A Yes, ma'am.

5 Q He did advise you of your rights?

6 A Yes, he did.

7 Q You did check mark and sign it?

8 A Yes, ma'am.

9 Q So, you spoke?

10 A Yes, ma'am.

11 Q You showed him pictures of your mouth, didn't you?

12 A Yes, ma'am.

13 Q You actually -- he took photographs of your mouth,
14 correct?

15 A Yes, ma'am.

16 Q Did you tell him, at that time, that you got it in two
17 different altercations?

18 A No, ma'am, we never got to even go that far because
19 he said that -- when he -- when I was about to start
20 talking to him, he said that he spoke with me the day
21 before and that from the -- the questions that he asked me,
22 he said he assumed that I was admitting to shooting Thomas,
23 and I told him that was a lie. I never admitted that to
24 him.

25 He got frustrated with me and started, you know,

Channen Ricks - Cross-examination
By Solicitor Sampson

1 banging on the desk. We kind of got into a little few
2 second heated altercation because I was telling him that I
3 didn't say that. And I told him that I no longer wanted to
4 talk to him without somebody present because I didn't know
5 what I should and shouldn't say to him. And he -- and I
6 asked can I have somebody present with me. And he said who
7 do you want to call, your momma? And I said no, my momma is
8 not a person who, who can advise me what I should and should
9 not be saying to you.

10 And he got mad once again and was calling me a liar and
11 telling me all kind of stuff. I gave him my phone and my
12 house keys and showed him a call on my phone and that was
13 it.

14 (Pause.)

15 MS. ZMROCZEK: Your Honor, those are without
16 objection.

17 (WHEREUPON, two photographs were marked as State's
18 Exhibit Nos. 21 and 22 and received into evidence at this
19 time.)

20 Q I want to show you what's been marked and, without
21 objection, we're asking to introduce Nos. 21 and 22.

22 Do you recognize those?

23 A Yes, ma'am.

24 Q What are these?

25 A It's pictures that Mr. Johnson took of me.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 Q So, 21 is you in a striped shirt?
- 2 A Yes, ma'am, that's me.
- 3 Q And 22 is a picture of your mouth?
- 4 A Yes, ma'am.
- 5 Q That's the only wounds you showed him?
- 6 A Yes, ma'am.
- 7 Q He -- did he ask you to show him or did you just
- 8 volunteer to show him your mouth?
- 9 A I don't recall. I, I know -- I don't, I don't want to
- 10 say he asked but I don't want to say he didn't because he
- 11 also asked me to pull my pants leg up and looked at my legs
- 12 for some odd reason. I don't know why but he did.
- 13 Q Did you show him any other marks on you---
- 14 A No.
- 15 Q ---showing you'd been in a fight?
- 16 A No, ma'am.
- 17 Q Did you show him any bruises to your knuckles?
- 18 A No, ma'am.
- 19 Q Did you have any?
- 20 A I don't believe I did.
- 21 Q Did you show him any scratches to your arms or legs?
- 22 A Excuse me?
- 23 Q Did you show Investigator Johnson any scratches or
- 24 your -- on your arms or legs?
- 25 A No, he looked. He, he looked but he didn't, he didn't

Channen Ricks - Cross-examination
By Solicitor Sampson

1 see any.

2 Q Did you have any?

3 A No, ma'am.

4 Q Did you have any injuries to the top of your head?

5 A No, ma'am.

6 Q Did you bleed at all?

7 A My mouth.

8 Q Just your mouth.

9 Did you bleed onto your clothes?

10 A I don't recall.

11 Q The clothes that you have on in that photograph, are
12 those the clothes that you had on the night of the incident?

13 A Yes, ma'am.

14 Q So, you didn't change clothes?

15 A No, ma'am.

16 (WHEREUPON, three photographs were marked as State's
17 Exhibit Nos. 23 through 25 for identification purposes only
18 at this time.)

19 SOLICITOR SAMPSON: State's 23 through 25, I believe
20 Ms. Zmroczek has no objection to those being admitted.

21 MS. ZMROCZEK: That's correct, Your Honor.

22 (WHEREUPON, State's Exhibit Nos. 23 through 25 were
23 received into evidence at this time.)

24 Q Let me show you what's been marked as State's
25 Exhibits 23 through 25.

Channen Ricks - Cross-examination
By Solicitor Sampson

- 1 Do you recognize those?
- 2 A Yes, ma'am.
- 3 Q So, is -- State's Exhibit 25, is that you walking
- 4 towards your car?
- 5 A Yes, ma'am, it's me walking.
- 6 Q walking in Richland Village?
- 7 A Yes, ma'am.
- 8 Q No. 24 is you as well?
- 9 A Yes, ma'am.
- 10 Q And No. 23 is you as well?
- 11 A Yes, ma'am.
- 12 Q And that's all from the night of the incident?
- 13 A Yes, ma'am.
- 14 Q And I know you said that you didn't show Investigator
- 15 Johnson any injuries.
- 16 Did you show any to anybody else?
- 17 A No, ma'am.
- 18 Q Did you need to go to the hospital or anything?
- 19 A No, my mouth was just bleeding.
- 20 Q Your mouth was bleeding but not onto your clothes?
- 21 A No, ma'am.
- 22 Q You didn't need stitches or anything for that injury?
- 23 A No, ma'am.
- 24 Q Didn't need treatment at all?
- 25 A It was swollen. I had to put some ice on it and stuff

Channen Ricks - Cross-examination
By Solicitor Sampson

1 when I got to the room.

2 Q Is that what you did, you put ice on it?

3 A Yeah, it was swollen pretty bad.

4 Q That's it though?

5 You didn't go to the doctor?

6 A No, ma'am.

7 Q Didn't need to go to the doctor?

8 A I don't never go to the doctor for anything.

9 Q You never go to the doctor?

10 A No, ma'am, unless it's something that I just can't do.

11 SOLICITOR SAMPSON: Beg the Court's indulgence.

12 (Pause.)

13 SOLICITOR SAMPSON: Your Honor, other than getting into
14 some of the things that I plan on getting into -- and I'm
15 not sure if I can at this point or not. So, I don't know
16 whether to stop or wait.

17 THE COURT: I don't know. I have no idea what you plan
18 on getting into.

19 SOLICITOR SAMPSON: I'll start and, and --

20 THE COURT: I'll -- I'll just put it this way. If it's
21 anything that has to do with jailhouse tape -- telephone
22 calls, no. I'll just make that easy.

23 SOLICITOR SAMPSON: Okay. Well, I can ask---

24 THE COURT: If it, if it -- if it hasn't -- if it
25 wasn't produced by you and it's not -- and it hasn't been

Channen Ricks - Cross-examination
By Solicitor Sampson

1 reviewed by the Defense --.

2 SOLICITOR SAMPSON: I can do it tomorrow.

3 Q Did you ever talk to Sierra, as you call her Bird,
4 about this incident?

5 A I never went into any details with her about it.

6 Q Never?

7 MS. ZMROCZEK: I think -- Your Honor, I think she's
8 actually referring to stuff that's on the jail calls that
9 she's asking him.

10 SOLICITOR SAMPSON: I can call her as a witness.

11 MS. ZMROCZEK: Okay.

12 Q So, you never talked to Ceira about how you were gonna
13 go home with her instead of Kiara that night.

14 A I can't recall. I probably said something like, you
15 know, I, I should have went home with you.

16 Q You should have went home with her.

17 Do you remember talking to her, and your mother as
18 well, about how Kiara was probably upset with you about all
19 this?

20 A What you mean?

21 Q That --.

22 MS. ZMROCZEK: If, Your Honor, if I may inquire where
23 she's getting this information. If, if it's statements
24 from witnesses, I haven't been provided those statements.
25 If it's -- I, I believe it's information from the jail

Channen Ricks - Cross-examination
By Solicitor Sampson

1 calls that I probably just received but I don't know. So,
2 I'm not sure where she's getting this information.

3 SOLICITOR SAMPSON: We've talked to several witnesses,
4 Kiara being one of them. So, some of that is coming from
5 those conversations.

6 THE COURT: But they're not, they're not witness
7 statements that have been given to law enforcement?

8 SOLICITOR SAMPSON: We don't have physical written
9 statements to give them.

10 THE COURT: I'm sorry?

11 SOLICITOR SAMPSON: We don't have written physical
12 statements to give her---

13 THE COURT: So, the---

14 SOLICITOR SAMPSON: ---this information.

15 THE COURT: So, let's be clear, the conversations are
16 not with law enforcement. They may be with, with either
17 the solicitor's investigator or with, or with members of
18 the solicitor's office. They're not with law enforcement.

19 SOLICITOR SAMPSON: Correct.

20 May I continue?

21 THE COURT: Unless I hear something further.

22 THE COURT REPORTER: I'm sorry?

23 THE COURT: I said unless I hear something further.

24 SOLICITOR SAMPSON: You know what, Your Honor, never
25 mind. No further questions.

Channen Ricks - Redirect examination
By Ms. Zmroczek

1 THE COURT: Anything further?

2 MS. ZMROCZEK: Just very, very briefly, Your Honor.

3 THE COURT: Yes, ma'am.

4 REDIRECT EXAMINATION

5 BY MS. ZMROCZEK:

6 Q When Ms. Sampson was asking about all these text
7 messages that, that you went through, did Kiara ever ask
8 you to return her key?

9 A On this night?

10 Q No, ever.

11 It's not -- you never saw it in those text messages,
12 did you?

13 A No, ma'am.

14 Q Okay. Did she ever tell you to turn the key over to
15 her?

16 A We argued about it one time.

17 Q But was it in these -- did you see it in these text
18 messages?

19 A No, it was -- definitely had nothing to do with
20 nowhere around this time of the incident or none of that.
21 None of this was even going on.

22 Q Okay. And speak into the microphone. You don't have
23 to repeat yourself. Just make sure that you speak in.

24 Is it safe to say that y'all's relationship had kind
25 of a cycle where you fight and make up?

Channen Ricks - Redirect examination
By Ms. Zmroczek

1 A Yes, ma'am.

2 Q And she would call you stupid?

3 A She would call me all kind of stuff but, you know, I
4 just accepted that that was the type of person that she
5 was, and, you know, we always talk about working our family
6 out. So, you know, even though I was texting and calling
7 other people, she know, just as well as I know, that I, I
8 wanted to make things work with her.

9 But we just had a lot of complications. You know, it
10 was, it was a lot of half truth being told on both sides.
11 You know, it was some issues with her family, and, you know,
12 she had some issues with how I dealt with my mama and I had
13 some issues about how she dealt with hers, and it was just a
14 lot of back and forth about small things but stuff that we
15 both were willing to work on. But, you know, I guess it came
16 to a point where things just got out of control.

17 Q And I believe one of the text messages that she asked
18 you about Kiara said to you a few days before this, a
19 mother -- gonna get an MF hurt and it won't be me.

20 She texted that to you?

21 A Yes, ma'am.

22 Q Okay. Did you take that as a credible, serious threat
23 at the time?

24 A No, ma'am, because she always say stuff like that. So,
25 I, I never took it serious. You know, like I said, I, I, I

Channen Ricks - Redirect examination
By Ms. Zmroczek

1 really got a lot of love for Kiara. You know, she, she gave
2 me my first son. So, you know, I know she was upset about
3 things that we was going through. But I know she was
4 wanting to work on things and make things right at home as
5 well. We just both made mistakes.

6 Q Okay. And the 9-1-1 call that you heard, that was the
7 first time you've heard that, correct?

8 A Yes, ma'am.

9 Q But that's not -- that, that wasn't the first call
10 with 9-1-1, was it?

11 A No, ma'am.

12 Q Have you ever heard the first call that you made to
13 9-1-1?

14 A No, ma'am.

15 Q Okay. But, but that second call that was played,
16 less than 10 minutes after you were attacked, you were
17 telling 9-1-1 that they tried to kill you when, when -- and
18 when -- and they attacked you when you walked in your house?

19 A Yes, ma'am.

20 Q What was your state of mind on the phone?

21 We heard you crying.

22 Were you just sad?

23 A Yeah, I was, I was confused and sad and hurt, and I, I
24 just -- I didn't know what was going on. I, I just couldn't
25 put it together.

Channen Ricks - Redirect examination
By Ms. Zmroczek

1 Q And when you said they fired a gun in my house, what
2 did you think?

3 A That I was gonna die.

4 Q And when you told that 9-1-1 operator, 10 minutes
5 later, that your son was in the house, what did you think
6 when that gun went off?

7 A That could of been one of us to get shot.

8 Q And when you met that person around the corner and
9 they jumped you, what did you think?

10 A I thought that he was trying to hurt me because, you
11 know, I, I tried to leave and go to a safe place where I
12 can use the phone without getting into any altercations
13 with anybody, and, you know, I was attacked again.

14 Q And were you in fear for your life at that time?

15 A Yes, ma'am.

16 MS. ZMROCZEK: Thank you.

17 THE COURT: Anything else?

18 SOLICITOR SAMPSON: Just a couple.

19 RE CROSS EXAMINATION

20 BY SOLICITOR SAMPSON:

21 Q When Ms. Zmroczek just said that during that call that
22 was less than 10 minutes after the shooting, you were
23 telling 9-1-1 about being shot, correct?

24 A About being shot?

25 Q Being shot at.

Channen Ricks - Recross examination
By Solicitor Sampson

1 A Somewhere along those lines. I just -- I, I don't
2 think that's what the tape said, that I was shot.

3 Q Shot at.

4 A Yeah, in, in the house.

5 Q Did you tell them you were shot at?

6 A In the house.

7 Q And in that same call, you lied to them, correct?

8 A What are you referring to when you say I lied?

9 Q In that same call, you lied about being in an
10 abandoned building?

11 A I said I was in an abandoned house.

12 Q That was a lie?

13 A Yes, ma'am, it was.

14 Q You lied about being alone?

15 A Yes, ma'am.

16 Q So, in that same call that you're telling them you're
17 being shot at, you were lying, correct?

18 A Not about being shot at.

19 Q So, the answer is yes, you were lying, just not about
20 being shot at?

21 A I told her that I was in a place that I wasn't.

22 Q That was a lie?

23 A Yes, ma'am.

24 SOLICITOR SAMPSON: Thank you. No further questions.

25 THE COURT: You may step down.

1 (Witness complies.)

2 SOLICITOR WILLIAMS: Your Honor, may we approach?

3 THE COURT: Yes.

4 (WHEREUPON, a bench conference was held at this time.)

5 MS. ZMROCZEK: Your Honor, for the record, those would

6 be all the witnesses that we have.

7 THE COURT: We'll start at nine o'clock tomorrow

8 morning.

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10 (WHEREUPON, Court was in recess for the evening.)

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1 Wednesday, August 3rd, 2016

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3 (WHEREUPON, four photographs were marked as State's
4 Exhibit Nos. 26 through 29. A repair bill was marked as
5 State's Exhibit No. 30. A photograph was marked as State's
6 Exhibit No. 31. All of the above exhibits were for
7 identification purposes only at this time.)

8 THE COURT: You may call your first witness.

9 SOLICITOR SAMPSON: Your Honor, if I may before -- just
10 about the video matter. It's my understanding is that Ms.
11 Zmroczek has now---

12 THE COURT: I'm sorry.

13 SOLICITOR SAMPSON: That Ms. Zmroczek is now -- we
14 initially, at the beginning of, of yesterday, talked about
15 whether the video was going to come in. In the beginning,
16 Ms. Zmroczek said she would not stipulate to a repair bill
17 coming in about the video cameras because she was arguing
18 that the video should not come in. At some point, I believe
19 she decided -- withdrew that objection or said that the
20 video could come in since they were part of her expert's
21 testimony.

22 It's my understanding today that she is no longer
23 stipulating to the -- I mean that she is now stipulating to
24 it. It's State's Exhibit 30 coming in, which is the repair
25 bill of the camera that was not working on the night of the

Kiara Pelzer - Direct examination
By Solicitor Williams

1 incident.

2 THE COURT: I don't know anything about the chain about
3 the videos but, if she stipulates to the repair bill, that's
4 fine. I mean I don't have a problem with that.

5 MS. ZMROCZEK: Right. I would -- that -- it -- that
6 was State's own, Your Honor, Your Honor, you know, ruling on
7 how it went. So, so, once those videos came in, certainly I
8 told her I would stipulate to the repair bill.

9 SOLICITOR SAMPSON: That would be it.

10 THE COURT: Call your witness.

11 SOLICITOR WILLIAMS: Thank you, Your Honor.

12 The State calls Kiara Pelzer to the witness stand.

13 THE COURT: Step forward please, ma'am, Miss Pelzer.

14 KIARA PELZER, being first duly
15 sworn, testified as follows:

16 THE CLERK: Thank you. Have a seat in the witness
17 stand please.

18 (Witness complies.)

19 THE CLERK: State your name for the record.

20 THE BAILIFF: State your name.

21 THE WITNESS: Kiara Pelzer.

22 THE COURT: Spell your first name please.

23 THE WITNESS: K-I-A-R-A.

24 DIRECT EXAMINATION

25 BY SOLICITOR WILLIAMS:

Kiara Pelzer - Direct examination
By Solicitor Williams

- 1 Q Miss Pelzer, how long have you known Channen Ricks?
2 A For a long time.
3 Q Okay. Do you know how many years?
4 A Not really.
5 Q More than five years?
6 A Yes.
7 Q Okay. More than six years?
8 A Yes.
9 Q Have you-all -- did you-all know each other in high
10 school?
11 A Yes.
12 Q Yes.
13 Okay. How old are you today?
14 A Twenty-five.
15 Q When did you graduate from high school?
16 A 2009.
17 Q All right. How long have you and Channen lived
18 together?
19 A Since -- months I know.
20 Q Okay.
21 A I know months.
22 Q Some months?
23 A Uh-huh. (Affirmative).
24 Q Okay. When did you---
25 THE COURT REPORTER: Is that a yes?

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q ---start living together?

2 THE COURT REPORTER: Is that a yes?

3 THE WITNESS: Yes.

4 Q When did he start living with you?

5 A I'm really not sure. It probably was in June of 2013.

6 I think 2013.

7 Q How did -- could you describe that living arrangement
8 for us, for everybody?

9 A Sometimes we would stay there. Sometimes we
10 wouldn't -- he wouldn't.

11 THE COURT REPORTER: I need you back off this just a
12 little bit. There's a lot of reverberation.

13 THE WITNESS: Okay.

14 THE COURT REPORTER: That's good right there. Thank
15 you.

16 THE WITNESS: Uh-huh. (Affirmative).

17 Q How many nights out of the week would he stay with you?

18 A It depends on how we were getting along. Sometimes he
19 would stay the whole week. Sometimes he wouldn't.

20 Q Was there ever a time that you left [REDACTED]

21 [REDACTED]---

22 A No, I never---

23 Q ---whenever you-all were arguing?

24 A No, I never left.

25 Q Why not?

Kiara Pelzer - Direct examination
By Solicitor Williams

1 A Cause that was my residence.

2 Q Had you and Channen ever went to the -- did you-all
3 ever go to the front office and put his name on the lease?

4 A No, sir.

5 Q Why not?

6 A We just never did.

7 Q Had Channen ever represented to you that he had
8 intentions for you-all to live together, just you and him
9 and, and the children?

10 A Yeah, he would say that.

11 Q Okay. What efforts did he make to make that happen, if
12 any?

13 A He got a job for a little while.

14 Q And how long did that happen or how long did he hold
15 that job?

16 A Probably like three or four months.

17 Q And do you remember what year that was?

18 A 2013.

19 Q 2013.

20 Was there ever a time you kicked him out of your house?

21 A Yeah.

22 Q Was there ever a time you asked for your key back?

23 A Yeah.

24 MS. ZMROCZEK: I'm sorry. I couldn't hear the answer,

25 Your Honor.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 THE WITNESS: I say yes.

2 Q Do you remember when that was?

3 A No, I don't.

4 Q Was there ever a time that Channen ever gave you your
5 key back?

6 A Yeah, he gave it back one time. Then he got it back
7 again.

8 Q How---

9 THE COURT: I'm sorry. You, you need to speak a little
10 more clearly when you talk. Your words are kind of mumbled
11 together and I can't understand you. So, if you'd please
12 repeat your answer.

13 THE WITNESS: Okay. I said he gave it to -- I gave
14 it -- he gave it back one time and he got it back again.

15 Q How did he get it back?

16 A I gave it to him.

17 Q And why did you do that?

18 A Cause we were back on good terms.

19 Q What authority did Channen have over [REDACTED]?

20 A I'm not sure. None really.

21 Q Would he -- did he have the authority to tell you who
22 could come and who could go?

23 A No.

24 Q Why not?

25 A Cause that was my residence.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q How long have you known Travis Tucker?

2 A I've known him since I was in middle school.

3 Q I'm gonna step back. I got that on my cell phone.

4 (Pause.)

5 Q Have you ever allowed Channen to bring other women to

6 [REDACTED]?

7 A No.

8 Q What would happen if you found that another woman was

9 in [REDACTED]?

10 A I, I would -- I don't know. I don't know what would of
11 happened.

12 Q would you allow that woman to stay?

13 A No.

14 Q why not?

15 A Cause it's not his residence.

16 Q when did you first meet Travis Tucker?

17 A In middle school.

18 Q what type of relationship did you have with Travis
19 Tucker in May of 2014?

20 A well, we didn't have a relationship. We just really
21 started back talking that night.

22 Q when you say that night, are you referring to May
23 24th, 2014?

24 A No, it was really May the 25th, that morning.

25 Q Let's talk about May 25th, 2014.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 what were your plans for that morning?

2 A I went out with my cousin and that's the club and we
3 were just in the club. And that's when I saw Travis and we
4 been talking and he was telling me that Channen was in the
5 club. And I told him that I knew that but he gave me his
6 number and he was asking could he see me after I leave the
7 club. And I was like yeah, that's fine.

8 Q What do you mean by or what did you think you were
9 talking about if I see you?

10 A Having sex.

11 Q Okay. What difference would it make if Channen were in
12 the club or not?

13 A I don't know. I guess he was just letting me know
14 that -- well, he was about to leave anyway. Travis was
15 about to leave the club when I saw him.

16 Q Was it well known in your community that Channen was
17 the father of your son, Aiden?

18 A Yes.

19 Q At that time, were you and Channen in a relationship?

20 A No.

21 Q How would you describe your relationship with Channen
22 at that time?

23 A We was basically trying to get along for the child,
24 trying to coparent.

25 Q Would you feel it necessary to let Channen know what

Kiara Pelzer - Direct examination
By Solicitor Williams

1 your plans were that night?

2 A No.

3 Q why not?

4 A Cause we weren't together.

5 Q Were you aware of any plans Channen had to pay you a
6 visit that night?

7 A No.

8 Q what level of communication did you have with Channen
9 that night, May the 20th -- I'm saying night but I'm
10 referring to the night of the 24th leading up into the
11 morning of the 25th.

12 A well, we talked a little bit and he was telling me he
13 was going out and then I never told him I was going out.
14 And so, like that morning, I asked him where he was and he
15 kept asking me why and asked me where I was and I wouldn't
16 tell him.

17 Q what concern of it was yours as to Channen's
18 whereabouts?

19 A To maybe show he wasn't near my residence -- near my
20 house.

21 Q why would you be concerned whether or not he was near
22 your house?

23 A Just so he wouldn't come there.

24 MS. ZMROCZEK: I'm sorry. I couldn't understand you.

25 THE WITNESS: I said so he wouldn't come there.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q why would he feel it would be okay to come there if
2 you-all were not in a relationship?

3 A Cause he use to doing that. Just popping up.

4 Q How long have you known or how long did you know Thomas
5 Pauling?

6 A I -- since elementary school. We went to elementary
7 school together.

8 THE COURT REPORTER: I'm sorry?

9 THE COURT: I'm sorry?

10 I didn't understand a word of that.

11 THE WITNESS: I said we went to elementary school
12 together.

13 Q would it help if I give you some water?

14 A No, I'm just -- my voice is trying to come back.

15 Q well, take your time --

16 A Okay.

17 Q -- so the Court can understand what you're saying.

18 When did you invite Travis to your house on May 25th?

19 A When he called me -- he was suppose to go somewhere
20 else but he called me and said that they wasn't home. So,
21 could he come over there. So, it was around probably
22 5:00 in the morning, 5:00 something -- well, 4:00 something
23 in the morning.

24 SOLICITOR WILLIAMS: Your Honor, may I approach the
25 witness?

Kiara Pelzer - Direct examination
By Solicitor Williams

1 THE COURT: Yes.

2 Q Do you know---

3 THE COURT REPORTER: Hold on a second.

4 (Pause.)

5 THE COURT REPORTER: Okay.

6 Q Do you know if Travis had someone traveling with him?

7 A Yeah, he told me he had Thomas with him.

8 THE COURT: I'm sorry. I didn't hear that either.

9 THE WITNESS: I say he told me he had Thomas with him.

10 Q Did that concern you?

11 A No.

12 Q Why not?

13 A Because of -- Thomas, he was my cousin or we called
14 each other cousins because my father is kin to him.

15 THE COURT: I'm sorry. I, I, I'm, I -- you just need
16 to move -- we need to move the microphone someplace else
17 because I just can't understand. I only heard half of what
18 she said and I only understood half of what she said.

19 (Pause.)

20 THE COURT: Could she repeat the last answer please?

21 Q Repeat the last answer please.

22 A Oh, I said no, it didn't concern me because he was my
23 cousin. Him -- my father is kin to him. So, we called each
24 other cousins.

25 MS. ZMROCZEK: I didn't understand her.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 THE COURT: And her father what?

2 THE WITNESS: He's kin to them.

3 THE COURT REPORTER: Kin to them.

4 Q So, your father was kin to Thomas?

5 A Yes.

6 Q Who did you put on notice that Travis and Thomas were
7 coming to your house that night?

8 A Xaviera.

9 Q Who is Xaviera?

10 A That's Channen's nephew.

11 Q Channen's nephew?

12 A Uh-huh. (Affirmative).

13 Q Why did you do that?

14 A Cause I wasn't home yet.

15 Q You weren't home yet.

16 Okay. Who else knew?

17 A Brianna but she was with me.

18 Q Who is Brianna?

19 A That's my cousin.

20 Q Your cousin?

21 A Uh-huh. (Affirmative).

22 THE COURT REPORTER: Is that a yes?

23 THE WITNESS: Yes. I'm sorry.

24 Q Was Brianna concerned about Channen -- excuse me.

25 Strike that.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Was Brianna concerned about Travis or Thomas coming to
2 your house that night?

3 A No, not really.

4 Q Why not?

5 A Because she knew both of them.

6 Q Was Xaviera concerned that Thomas and Travis were
7 coming to your house that night?

8 A He didn't act concerned.

9 Q Do you remember what time Travis and Thomas got to your
10 house that night?

11 A It was probably like 4:00 -- probably like 4:45 in the
12 morning.

13 Q Okay. What time did you get to your house that
14 morning?

15 A Maybe like five minutes after them. So, probably like
16 4:50.

17 Q Okay. Five minutes after them?

18 A Uh-huh. (Affirmative).

19 Q Maybe like 4:50?

20 A Yes, sir.

21 Q What happened next?

22 A We were in the living room just talking at first and
23 then Brianna and Xaviera left to go to the store.

24 Q Who, who all was in the living room?

25 A Me, Travis, Thomas, Brianna, Xaviera.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q Did anyone express concern at that time about Travis
2 and Thomas being at your house?

3 A No.

4 Q I'm sorry?

5 A No.

6 Q Why did Brianna and Xaviera leave?

7 A They went to the store, to the gas station.

8 Q What was Thomas doing while he was at your house?

9 A He was eating at first and then he laid on the floor
10 and went to sleep.

11 Q What happened next?

12 A Me and Travis went in the room -- I mean the bedroom.

13 Q Do you remember what time that was?

14 A No, sir.

15 Q At that moment in time, did you know whether or not
16 Channen was coming to your house?

17 A No.

18 Q Were you concerned at all about Channen coming to your
19 house?

20 A No.

21 Q Why didn't you have that concern?

22 A Because he didn't stay with me the night before. I
23 didn't see him the night before.

24 Q What about the night before that?

25 A I'm not sure if he stayed there or not but I know he

Kiara Pelzer - Direct examination
By Solicitor Williams

1 didn't stay the night before that, yeah, cause I think I
2 stayed at my mom's house. I'm not sure.

3 SOLICITOR WILLIAMS: Your Honor, may I approach the
4 witness?

5 THE COURT: Yes.

6 Q Kiara, I'm showing you Defendant's Exhibit 10, Page 2.

7 A Uh-huh. (Affirmative).

8 Q These are Mr. Ricks' cell phone records.

9 Do you recognize that number there?

10 A Yes.

11 Q What is that number?

12 A It's my number.

13 Q Okay. Could you read it out for me please?

14 A (803)262-8421.

15 Q Okay. And could you read the text message for me
16 please?

17 A It says Boy, lay. You at BB house.

18 THE COURT REPORTER: I'm sorry. I can't understand
19 you.

20 THE WITNESS: I'm sorry.

21 THE COURT REPORTER: Read a little slower.

22 A It says Boy, lay. You at BB house. I can't even see
23 that. I'm bout to come or you with yo B.

24 SOLICITOR SAMPSON: Justin, read it. You read it.

25 Q Boy, lay. You at BB house. I'm bout to come or you

Kiara Pelzer - Direct examination
By Solicitor Williams

- 1 with yo bitch.
- 2 Is that what that text message said?
- 3 A Yes.
- 4 Q Can you translate for me?
- 5 what does that mean?
- 6 A It really means Boy, please. Like quit lying. You at
- 7 your mama house.
- 8 Q Boy, please, you're at your mother's house?
- 9 A Uh-huh. (Affirmative).
- 10 Q Your mama's house?
- 11 A Yes.
- 12 Q what does that mean?
- 13 A Nothing. I was -- that's when I was writing at his
- 14 mother's house but he wasn't there.
- 15 Q Was there any intention on your part to invite Channen
- 16 to your house --
- 17 A No.
- 18 Q -- by sending that text message?
- 19 A No.
- 20 Q what, if anything, interrupted you and Travis while you
- 21 were in your room -- in your bedroom?
- 22 A Repeat that.
- 23 Q what interrupted you and Travis while you were in your
- 24 bedroom?
- 25 A Oh, someone knocking on the door.

Kiara Pelzer - Direct examination
By Solicitor Williams

- 1 Q what did you hear?
- 2 A I just heard knocking and yelling, talking.
- 3 Q All right. what did Travis do?
- 4 A He got up and---
- 5 MS. ZMROCZEK: I'm sorry. what did Travis do or hear?
- 6 I, I couldn't---
- 7 SOLICITOR SAMPSON: what did Travis do.
- 8 SOLICITOR WILLIAMS: what did Travis do.
- 9 MS. ZMROCZEK: Thank you.
- 10 SOLICITOR WILLIAMS: D-O.
- 11 A He got up and say he had to get his gun.
- 12 THE COURT REPORTER: I'm sorry?
- 13 THE WITNESS: He got up and say he had to get his gun.
- 14 Q when did you see Travis with a gun that night?
- 15 A when we were sitting in the living room talking.
- 16 Q were you concerned that he had a gun?
- 17 A Yes.
- 18 Q why were you concerned?
- 19 A Cause my kids was in the house.
- 20 Q what did he do with the gun?
- 21 A He laid it in the corner in the living room.
- 22 Q How far away was that from your bedroom?
- 23 A It was -- it's far.
- 24 Q was it far enough to make you feel comfortable?
- 25 A That the gun was away?

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q Correct.

2 A Yes.

3 Q Where were you when Travis left your bedroom?

4 A In the room trying to find some clothes.

5 Q What happened next?

6 A And I just heard a whole bunch of tussling, glass, and
7 then I just grabbed the cover and I ran in the living room
8 to them fighting.

9 Q You heard glass?

10 A Yes.

11 Q You heard tussling?

12 A Yes.

13 Q Were you able to put clothes on?

14 A No.

15 Q Were you concerned at this point?

16 A Yes.

17 Q Why?

18 A Because of the gun in the living room where they were.

19 Q Because of the gun in the living room where they were.

20 Did you have any idea who was outside of your bedroom?

21 A No.

22 Q Were you expecting any other guests?

23 A No.

24 Q What did you see once you exited your bedroom?

25 A I saw them fighting.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q Who did you see fighting?

2 A Channen and Travis and Thomas.

3 Q Were lights on in the living room?

4 A Yeah, the light was on in the dining room.

5 Q The light was on in the dining room?

6 A Yes.

7 Q How bright was it in the living room?

8 A It was, it was pretty -- it was like this light.

9 Q Did you have any problems seeing the faces of the
10 people fighting in your living room?

11 A No.

12 Q What did you do next?

13 A Oh, I was telling them to stop.

14 Q You told them to stop?

15 A Yes.

16 Q What level of concern did you have at this point in
17 time?

18 One, little to no concern. Ten, grave danger.

19 A Ten.

20 Q Why is that?

21 A Cause it was a gun inside the house.

22 THE COURT REPORTER: I'm sorry, cause --?

23 THE WITNESS: It was a gun inside the house.

24 Q At this point, who did you see with the gun?

25 A Travis though had the gun.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q What was he doing with the gun?

2 A I don't know. I don't know cause I don't know that
3 much about guns. I don't know if he was trying to take the
4 safety off or put bullets in. I don't know.

5 Q Where was Channen at this time?

6 A They were in the living room still fighting over the
7 gun.

8 Q Where was Thomas at this time?

9 A Like against the wall.

10 Q Was he engaged in the fighting?

11 A He was fighting at first and then he stopped, I guess,
12 cause he had just woke up. So, he just stopped.

13 Q What happened next?

14 A I went -- I tried to get into the -- my kids' room with
15 my kids and my cousin and his nephew.

16 Q Were you hit at any point in time during this fighting?

17 A I was.

18 Q Who hit you?

19 A I'm not sure.

20 Q At this point in time, in your mind, who was causing
21 the problem in your house?

22 A Channen.

23 Q And why do you feel that way?

24 A Because he didn't have the -- basically he didn't have
25 the -- he could of let them just leave or he could of just

Kiara Pelzer - Direct examination
By Solicitor Williams

1 left.

2 Q Were you able to get into your kids' room?

3 A I was.

4 Q What happened while you were in your kids' room?

5 A We was looking for the cell phone to call the police
6 but mine was in the living room and I don't know where
7 Xaviera and Brianna's was. But they were on my kids' bed
8 and I was standing in the floor, like in the middle of the
9 floor of the room, and Channen came around there and he was
10 yelling.

11 Q Have you ever seen Channen upset?

12 A Well, yeah.

13 Q Is that something you see often?

14 A Yeah.

15 Q Is it easy for you to tell when he's upset?

16 A Yes.

17 Q So, it's fair to say he was upset at that point in
18 time?

19 A Yes.

20 Q What did he do when he came into the children's room?

21 A He was, he was yelling saying something. I really
22 couldn't understand. I just understood I can't believe you
23 on my birthday or something like that. He says something
24 around that nature and then he shot in the ceiling.

25 THE COURT REPORTER: Then he shot the --?

Kiara Pelzer - Direct examination
By Solicitor Williams

- 1 THE WITNESS: In the ceiling.
- 2 Q He shot in the ceiling?
- 3 A Yes.
- 4 Q This man right here?
- 5 A Yes.
- 6 Q With what?
- 7 A A gun.
- 8 Q Where did that gun come from?
- 9 A Travis.
- 10 Q At this point in time, are -- were you aware of anyone
- 11 else in your home other than the occupants of that bedroom?
- 12 A I knew they was still around there but I seen when one
- 13 ran past the room and jumped out the window.
- 14 Q Do you remember who that was?
- 15 A No.
- 16 Q Do you remember if the one who jumped out of your
- 17 bedroom window did that before or after Channen fired a shot
- 18 into your ceiling?
- 19 A No, I don't remember.
- 20 Q Did any -- did Travis or Thomas enter your kids'
- 21 bedroom?
- 22 A No.
- 23 Q At the time Channen fired a shot into your ceiling, was
- 24 there any danger in your children's bedroom?
- 25 A No.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q Did you feel that your life or the life of your
2 children were in danger at that time --

3 A No.

4 Q -- before Channen fired that shot?

5 A Before?

6 Q (Nods affirmatively.)

7 A Yeah.

8 Q And why is that?

9 A Cause I saw the gun.

10 Q Did you feel that Travis or Thomas posed any threat to
11 your children or your safety while you were in the
12 children's bedroom?

13 A No.

14 Q Why not?

15 A Cause they didn't come in the bedroom.

16 Q Did you fear for your life and the life of your
17 children after Channen fired a shot into the ceiling?

18 A I did.

19 Q Why is that?

20 A Cause I didn't know what he was gonna do after that but
21 he left right after that -- like right after it.

22 Q He left right after he fired the shot?

23 A Uh-huh. (Affirmative).

24 THE COURT REPORTER: Is that a yes?

25 THE WITNESS: Yes.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q Do you know where he went?

2 A No, cause I was -- I turned around and got my kids and
3 we left.

4 SOLICITOR WILLIAMS: May I approach the witness, Your
5 Honor?

6 THE COURT: Yes.

7 Q Kiara, I'm going to show you a few pictures.

8 Do you recognize this picture?

9 A Yes.

10 Q What is this a picture of?

11 A The living room window.

12 Q Was this window broken before you got home?

13 A No.

14 Q Okay. Is this what it looked like after the
15 altercation in your living room?

16 A Yes.

17 Q Is it a fair and accurate depiction of what your living
18 room looked like and what the window looked like after the
19 altercation?

20 A Yes.

21 MS. ZMROCZEK: Your Honor, I just -- I didn't catch the
22 number.

23 SOLICITOR WILLIAMS: I was getting to it just now.

24 MS. ZMROCZEK: Okay.

25 SOLICITOR WILLIAMS: The State just showed the witness

Kiara Pelzer - Direct examination
By Solicitor Williams

1 State's Exhibit 10.

2 MS. ZMROCZEK: Thank you.

3 SOLICITOR WILLIAMS: The State is showing the witness
4 State's Exhibit 11.

5 Do you recognize this photo?

6 A Yes.

7 Q What is this a picture of?

8 A My bedroom window.

9 Q And this, this picture here, in its current form, is it
10 a fair and accurate depiction of your bedroom window the
11 night of the altercation?

12 A Yes.

13 SOLICITOR WILLIAMS: The State is showing the witness
14 State's Exhibit 12.

15 What is this a picture of?

16 A My bedroom.

17 Q And it -- and is it -- is it a fair and accurate
18 depiction of your bedroom the night of this altercation?

19 A Yes.

20 Q All right. You were -- the State is showing the
21 witness State's Exhibit 13.

22 Do you recognize this picture here?

23 A Yes.

24 Q And what is this a picture of?

25 A My front porch.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q And is it, is it a fair and accurate depiction of your
2 front porch the night of this altercation?

3 A Yes.

4 Q And what is this a picture of?

5 A My hallway.

6 Q And this is State's Exhibit 14.

7 Is this also a fair and accurate depiction of your
8 hallway the night of the altercation?

9 A Yes.

10 Q And what is this a picture of, Kiara?

11 A The ceiling.

12 Q And do you recognize this area in that photo?

13 A Yes.

14 Q What is that -- what is that area?

15 A Well, where the bullet hole was.

16 Q And is this your children's bedroom?

17 A It is.

18 Q And is this a fair and accurate depiction of the
19 ceiling the night of the altercation?

20 A Yes.

21 Q This is State's Exhibit 15.

22 Your Honor, at this time the State would move to enter
23 Exhibit 10 -- State's Exhibit 10 through 15 into evidence.

24 MS. ZMROCZEK: Without objection, Your Honor.

25 THE COURT: They're admitted.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 (WHEREUPON, State's Exhibit Nos. 10 through 15 were
2 received into evidence at this time.)

3 SOLICITOR WILLIAMS: The State is showing the witness
4 State's Exhibit 26.

5 Do you recognize this photo?

6 A Yes.

7 Q And what is it a picture of?

8 A My apartment.

9 Q And is it a fair and accurate depiction of your
10 apartment the night of the incident?

11 A Yes.

12 Q And what is this a picture of?

13 A The bullet hole.

14 Q Okay. This is State's Exhibit 27 and is this a fair
15 and accurate depiction of the bullet hole the night of the
16 incident?

17 A Yes.

18 Q And do you recognize this photo?

19 A Yeah.

20 Q This is State's Exhibit 28.

21 what is this photo?

22 A A picture of my little girl's room.

23 Q Is this a fair and accurate depiction of your little
24 girl's room the night of this incident, incident?

25 A Yes.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q And what about this photograph?

2 A Of her -- my little girl's room.

3 Q This is State's Exhibit 29.

4 Is this also a fair and accurate depiction of your
5 little girl's room the night of the incident, incident?

6 A Yes.

7 Q And what is this a photo of?

8 A A picture of my little girl's room.

9 Q And this is State's Exhibit 31 and is it also a fair
10 and accurate depiction of your little girl's room the night
11 of the incident?

12 A Yes.

13 SOLICITOR WILLIAMS: All right. Your Honor, at this
14 time, the State would move to enter State's Exhibit 26, 27,
15 28, 29, and 31 into evidence.

16 MS. ZMROCZEK: Your Honor, I probably have no
17 objection. I just want to see them.

18 (Pause.)

19 MS. ZMROCZEK: Nothing. No objection, Your Honor.

20 THE COURT: They're admitted.

21 (WHEREUPON, State's Exhibit Nos. 26 through 29 and 31
22 were received into evidence at this time.)

23 Q I have one last photo for you, Kiara. This is State's
24 Exhibit 2.

25 Do you recognize this photo?

Kiara Pelzer - Direct examination
By Solicitor Williams

1 A Yes.

2 Q And what is this photo?

3 A My living room.

4 Q And is it a fair and accurate depiction of your living
5 room on the night of the incident?

6 A Yes.

7 SOLICITOR WILLIAMS: The State -- Your Honor, at this
8 time, the State seeks to exhibit -- seeks to enter State's
9 Exhibit 2 into evidence at this time.

10 MS. ZMROCZEK: Without objection.

11 THE COURT: I think that's already in.

12 THE COURT REPORTER: It's already in.

13 SOLICITOR WILLIAMS: So, it's in?

14 MS. ZMROCZEK: Yeah, I thought it was already in.

15 Q So, was this light on during that altercation?

16 A Yes.

17 Q And, Kiara, during that altercation, was there any
18 indication that either Thomas, Travis, Thomas and/or Travis
19 knew Channen or Channen knew Thomas and/or Travis?

20 MS. ZMROCZEK: Objection, Your Honor. That -- I think
21 that's -- she's speculating -- he's asking her to speculate
22 if -- what somebody else knew.

23 THE COURT: Rephrase the question.

24 Q Could you tell whether or not Channen -- can you tell
25 whether or not anyone knew each other during that

Kiara Pelzer - Direct examination
By Solicitor Williams

1 altercation?

2 A Yes.

3 Q How did you tell that?

4 A Cause I remember saying it's he, Thomas.

5 Q Who did you tell that to?

6 A Channen.

7 Q What about anyone else?

8 A (Witness nods negatively.)

9 THE COURT REPORTER: What?

10 THE WITNESS: No.

11 Q Once, once Channen left your house, what did you do
12 next?

13 A I left.

14 Q And where did you go?

15 A To get his mother.

16 Q Why did you do that?

17 A Because he had her car.

18 Q Where was your car parked?

19 A In the front of my apartment.

20 Q Did you encounter anyone in the front of your
21 apartment?

22 A No.

23 Q Did you hear anything outside of your apartment?

24 A When we were leaving, when we were going up the road,
25 we heard gunshots.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q How far away from your apartment were you before you
2 heard gunshots?

3 A I was right in front of the fire station.

4 Q How far is the fire station from your apartment?

5 A I'm not for sure.

6 Q Is it a short distance or a long distance?

7 A It's a short distance.

8 Q How long, how long would it take you to walk?

9 A Say probably say about, from my apartment, like three
10 minutes, two minutes.

11 Q Did you see anyone after you got to your car and
12 started driving?

13 A No.

14 Q Did you see anyone other than Channen shoot into your
15 apartment?

16 A No.

17 Q Are you sure?

18 A Yes.

19 Q Apart from the four shots you heard as you were exiting
20 your apartment, prior to that, did you hear any other shots
21 inside your apartment?

22 A No, nobody was in there after, after I left.

23 Q Before, before Mr. Ricks shot into the ceiling, did you
24 hear any other shots?

25 A No.

Kiara Pelzer - Direct examination
By Solicitor Williams

1 Q Did you see any other shots?

2 A No.

3 SOLICITOR WILLIAMS: Your Honor, no further questions
4 for this witness at this time.

5 THE COURT: Any cross?

6 MS. ZMROCZEK: Thank you, Your Honor.

7 Please the Court.

8 CROSS-EXAMINATION

9 BY MS. ZMROCZEK:

10 Q Miss Pelzer, it's safe to say that your memory has
11 improved over the last two and a half years, correct?

12 A Yes.

13 Q It has?

14 A Uh-huh. (Affirmative).

15 Q In fact, you've given -- it improved after yesterday
16 when the prosecutors made you sit there and, and listen to
17 all those text messages, right?

18 A No.

19 Q So, when is it that the first time that you ran and
20 told Kerry Johnson I saw Channen shot?

21 A It was in my statement.

22 Q It was in your statement?

23 A Yeah.

24 Q That statement that you signed?

25 A Yeah.

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 Q And you said you saw Channen shot in your---

2 A Yes.

3 Q ---shoot in your house?

4 A Yes.

5 Q Let me get you a clean copy of this statement.

6 Okay. I'm gonna hand you what's been marked as State's

7 9.

8 Can you tell me on what page that you say, you say that
9 Channen shot in your apartment?

10 A It was a, it was a question and answer.

11 Q It was a question and answer?

12 A Yes, ma'am.

13 Q So, the question was -- well, did you see anyone else
14 with a gun that night?

15 A Yeah, and then it said---

16 Q And then you said you saw it -- I saw Channen with a
17 gun.

18 A Uh-huh. (Affirmative).

19 Q As he was walking into the front bedroom---

20 A Uh-huh. (Affirmative).

21 Q ---he dropped the gun and phone and said why you do
22 this to me?

23 A Uh-huh. (Affirmative).

24 Q Okay.

25 THE COURT REPORTER: Is that a yes?

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 THE WITNESS: Yes, I'm sorry.

2 Q And then he asked you what happened to the gun?

3 A Uh-huh. (Affirmative).

4 Yes.

5 Q And you said I guess he picked it up because I saw him
6 shoot at -- the gun and later he called his mother from his
7 phone. He must have picked up the gun.

8 A Yes.

9 Q Okay. So, that statement you gave to Officer, Officer
10 Maldonado the night of -- on May 25th of 2014, right?

11 A Right.

12 Q And then -- do you ever recall talking with Mr. Ricks
13 former attorney, Mr. Steven Kristen?

14 A Yes.

15 Q I'm sorry?

16 A Yes.

17 Q What did you tell Mr. Kristen?

18 A I really didn't sit down and talk to him. So, I'm not
19 sure.

20 Q What did you do instead of talking to him?

21 A I wrote a letter.

22 Q You wrote him a letter?

23 A Yes.

24 Q And in that letter---

25 SOLICITOR WILLIAMS: Objection, Your Honor. State

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 hasn't seen this letter or had a chance to review it.

2 MS. ZMROCZEK: Your Honor, if -- this is impeachment
3 and, under Rule 5(b)(2) it's a statement given to an
4 attorney. This is simply used for impeachment or it's just
5 a statement, maybe not just a statement, given to an
6 attorney.

7 THE COURT: which rule are you talking about, criminal
8 rules?

9 MS. ZMROCZEK: Criminal Rule 5 on --.

10 THE COURT: 5(b)(2) says that except as to scientific
11 or medical reports, this subdivision does not authorize the
12 discovery or inspection of reports, memoranda, or other
13 internal defense documents made by the defendant or his
14 attorneys or agents in connection with the investigation or
15 defense of the case or of statements made by the defendant
16 or by prosecution or defense witnesses or by prospective
17 prosecution or defense witnesses to the defendant, his
18 agents, or attorneys.

19 MS. ZMROCZEK: I believe, under that rule, Your Honor,
20 that, unless I intended to introduce the statement in my
21 case in chief, that I'm not required to turn anything over.

22 THE COURT: 5(b)(1)(a) provides -- 5(b) talks about
23 disclosure of evidence by the defendant. So, 5(b)(1)(a)
24 talks about documents and tangible objects. And it says if
25 the defendant requests disclosure of information, upon

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By Ms. Zmroczek

1 compliance with such request by the, by the prosecution, the
2 defendant, on request by the prosecution, shall permit the
3 prosecution to inspect book -- inspect and copy books,
4 papers, documents, photographs, tangible objects of copies
5 of portions thereof which are in the possession/control of
6 the defendant and which the defendant intends to introduce
7 as evidence in chief at the trial.

8 (Pause.)

9 THE COURT: Yes, sir.

10 SOLICITOR WILLIAMS: Your Honor, even if the material
11 that Ms. Zmroczek hasn't turned over, she believes and the
12 Court believes that she does not have to turn over, the
13 State would point you to South Carolina Rules of Evidence,
14 Rule 613(b).

15 THE COURT REPORTER: D?

16 I'm sorry.

17 D?

18 SOLICITOR WILLIAMS: B, B as in boy.

19 That rule refers to extrinsic evidence or prior
20 inconsistent statement of a witness. Essentially, Your
21 Honor, that rule, rule provides that the witness needs to be
22 given the opportunity to be advised of the substance of the
23 statement, the time and place it was allegedly made, and the
24 person with whom it was made and is given the opportunity to
25 explain or deny the statement. If the witness does not

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By Ms. Zmroczek

1 admit that he, in this case she, made the prior inconsistent
2 statement, extrinsic evidence of such statement is
3 admissible. However, if the witness admits making the prior
4 statement, extrinsic evidence that the prior statement was
5 made is inadmissible.

6 THE COURT: And I, and I think that's what she was in
7 the process of trying to -- I think your objection was you
8 hadn't seen it.

9 SOLICITOR WILLIAMS: Right, that was my---

10 THE COURT: which is different -- which is different
11 from what 613 talks about.

12 SOLICITOR WILLIAMS: You're exactly right, Your Honor,
13 and the way that cross-examination was going, she was
14 cross-examining the witness without giving her opportunity
15 to view or explain the statement.

16 THE COURT: And I think we hadn't gotten there yet.

17 SOLICITOR WILLIAMS: Thank you, Your Honor.

18 And, Your Honor, just for the record, your ruling is
19 that the statement comes in?

20 THE COURT: No, I -- it's, it's not admissible. She
21 just simply asked about the statement and you objected
22 before she got through with the question and before the
23 witness had a chance to answer as to whether or not she
24 recalled making the statement or the substance of the
25 statement.

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 So, I think your objection was that she hadn't seen it.
2 That, pursuant -- it appears, pursuant to the Criminal
3 Rules, the -- that's not necessarily required to be turned
4 over. If she doesn't lay the appropriate foundation, you
5 can object under 613 Rules of Evidence and I'll be happy to
6 consider it.

7 The statement's not admissible. The statement, itself,
8 is never admissible as an exhibit but it can be used to
9 impeach someone. And if she admits that she made the
10 statement, then there's, under the rule, that's, that's
11 fine.

12 SOLICITOR WILLIAMS: Thank you, Your Honor.

13 MS. ZMROCZEK: Thank you, Your Honor.

14 CONTINUED CROSS-EXAMINATION

15 BY MS. ZMROCZEK:

16 Q Miss Pelzer, do you recall, in 2014, leaving a letter
17 for Mr. Ricks' attorney?

18 A Yes.

19 Q You did?

20 A Yes.

21 Q And, in that letter, do you recall that you wrote it
22 freely and voluntarily?

23 A Yes.

24 Q And that you wrote that Travis jumped up and said I got
25 to go get my pistol out of the living room and you put that

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 in quotes, right?

2 A Yes.

3 Q And that -- and you, you told Mr. Kristen, in that
4 letter, that Travis said he didn't want to have to kill
5 any -- kill nobody?

6 A Yes.

7 Q Travis said that, right?

8 A Yes.

9 Q Okay. And then Channen yelled to Travis to put the gun
10 up, my kids are in here?

11 A Yes.

12 Q Channen said that, right?

13 A Yes.

14 Q Okay. And that, while they were fighting, you walked
15 over to break it up and that's when you got hit?

16 A Yes.

17 Q And you don't know who hit you?

18 A No.

19 Q Okay. And EMS actually treated you, right?

20 A They just looked. I didn't get any treatment.

21 Q Okay. And then you told Mr. Kristen, in that letter,
22 that you walked out -- you tried to get in the room where
23 Brianna and Xaviera were but the door was locked?

24 A Yes.

25 Q But you finally got in?

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

- 1 A Yes.
- 2 Q And then Channen came in?
- 3 A Yes.
- 4 Q And he was asking how, how could you do this?
- 5 A Yes.
- 6 Q And you turned around to grab the baby?
- 7 A Yes.
- 8 Q And heard a gunshot?
- 9 A Yes.
- 10 Q And then you told Mr. Kristen after, in 2014, that
- 11 Travis asking -- when you looked, Travis was going into your
- 12 room to leave out the window?
- 13 A Yes. Right.
- 14 Q And that Channen ran to you?
- 15 A Yeah.
- 16 Q And that you never saw -- the only person -- the only
- 17 gun you ever saw was with Travis?
- 18 A He asked -- well, I said the only gun I ever saw that
- 19 night was Travis gun, yes.
- 20 Q Okay. So -- and that letter was written and, and --
- 21 after you gave that statement?
- 22 A Yes.
- 23 Q Okay. And actually, when they first got there, after
- 24 you -- when you first got back, Investigator Frost spoke
- 25 with you, right?

Kiara Pelzer - Cross-examination
By MS. Zmroczek

1 A When, when I got back where?

2 Q When you first got back to the apartment before anybody
3 took you to the police station to give a statement.

4 A Yes.

5 Q And, at that point, you didn't say anything about
6 Channen shooting, right?

7 A No.

8 Q Okay. It's safe to say that you were pretty angry
9 having to have -- listen to all these text message to,
10 messages to all those ladies here yesterday, right?

11 A Yes.

12 Q And, in fact, when you got home, you, you were still
13 pretty angry?

14 A Yes.

15 Q And you made the statement now MF'ers want to play.
16 Got to do MF'ers just how they do you, right?

17 A Yeah, but you don't know what that's pertaining to.

18 Q Okay. So, what's that pertaining to?

19 A It's somebody else.

20 Q Somebody else?

21 A Not nothing having to do with in Court.

22 Q Okay.

23 THE COURT: I'm sorry. I didn't understand the end of
24 that.

25 THE WITNESS: I said it's something else. Not nothing

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 that had to do with Court, Court.

2 Q And now MF'ers want to play on the phone?

3 A Yeah, somebody was playing on the phone.

4 Q And that you just---

5 THE COURT REPORTER: I'm sorry. Don't talk over each
6 other.

7 MS. ZMROCZEK: I'm sorry.

8 THE COURT REPORTER: Would you repeat your sentence?

9 THE WITNESS: I said yes, somebody was playing on my
10 phone.

11 Q So, to be clear, and I wanted to make sure cause
12 sometimes it's just hard to hear in this courtroom, Channen
13 had a key to the apartment, right?

14 A Yes, he did.

15 Q And he was free to come?

16 A Yeah, but he told me he lost the key. So --.

17 Q But he told you he had lost it but he was still free to
18 come and go?

19 He was welcome?

20 A Yeah, he was welcome.

21 Q He's a welcomed guest, right?

22 A Yeah, that's my son's father.

23 Q Okay. And he didn't know that Travis and Thomas were
24 there that night, did he?

25 A No, he didn't.

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 Q Had no idea when he walked in that house?

2 A No.

3 Q Okay. Is it safe to say -- Mr. Williams asked you, you
4 know his emotions.

5 A Yes, I do.

6 Q It's safe to say that Channen was confused as to what
7 was going on?

8 A Yeah, he was.

9 Q He was?

10 A Uh-huh. (Affirmative).

11 Q And you told -- you said that the window got broken
12 after the altercation?

13 A Yes.

14 Q There was a -- I mean it was a --?

15 A Yes.

16 Q There was a lot of fighting going on, right?

17 A It was.

18 Q And this happened quickly?

19 A It did.

20 Q Really quickly?

21 A Yes.

22 Q The whole thing?

23 A Yes.

24 Q And you were communicating with Channen the whole
25 night?

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 A Not the whole night but, yeah, we were communicating.

2 Q But you -- let me ask you this.

3 Did Mr. Johnson ever ask to, to dump your phone or to,
4 to get your text messages or your telephone calls?

5 A No.

6 Q Okay. But you would of -- agree that your phone number
7 is the one that was reflected --

8 A It is.

9 Q -- in his phone records?

10 A It is.

11 Q So, if it shows calls and text messages back and forth,
12 that would be your phone, right?

13 A Yeah. If it's the same number, yeah.

14 Q Right, if it's, if it's the same number.

15 A Yes.

16 Q And nobody else was using your phone that night, right?

17 A No.

18 Q So, any calls or text messages from your phone would of
19 been from you?

20 A Yeah.

21 Q Okay. And any calls or text messages to your phone
22 would of been to you?

23 A Yes.

24 Q Okay. So, if the phone records reflect here was a
25 conversation, that there -- those are accurate -- you would

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 agree that they are what they are---

2 A Yes.

3 Q ---right?

4 Okay. Were you ever having to use Brianna's phone?

5 A I think I did use it when my phone went dead.

6 Q Your phone -- your phone battery died?

7 A Yes.

8 Q Is that why you charged it up when you got home?

9 A Yes.

10 Q And so, so, even throughout the night, you were
11 texting, calling people from Brianna's phone as well
12 possibly?

13 A Yes.

14 Q And those would include Channen?

15 A Yeah, I think I did.

16 Q Okay. And those would include Travis?

17 A Yes.

18 Q Okay. Because I noticed that, that there are phone
19 calls beginning about 2:30 or so or text messages but that
20 says to Brianna.

21 Was Brianna talking to Travis or would that have been
22 you?

23 A She was talking to -- yeah, she was talking to him
24 about one of his friends.

25 Q Okay. So, so, both of y'all were using her phone?

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 A Yes.

2 Q Okay. You would agree with me that, when Channen
3 walked out and all of this started happening, that he had no
4 idea what he was walking into, correct?

5 A Correct.

6 Q Okay. And that, when he walked in and he saw that
7 there was a gun, he said what are you doing with a gun
8 around my girl and my kids, right?

9 A He said around his kids, yeah.

10 Q Yeah.

11 And he's concerned, right?

12 A Right.

13 Q And, and it's scary that there's a gun in there, right?

14 A Right.

15 Q Okay. And then they were, they were, they were both
16 talking at first, right?

17 A Yeah, they were both---

18 Q Okay. And you don't know what happened then after
19 that?

20 A No.

21 Q Okay. And you've had constant contact with -- you're
22 not scared of Channen?

23 A No.

24 Q Not at all, right?

25 A No.

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 Q You've had constant contact with him ever since this
2 happened?

3 A Yeah.

4 Q It's safe to say that y'all's relationship has had some
5 rocky times?

6 A Yes.

7 Q Okay. But he was free to come and go?

8 A Yeah.

9 Q And he had a right to be there that late?

10 You just didn't know he was coming but he had a right
11 to be there that night?

12 You just didn't know he was coming, right?

13 A No, I didn't know he was coming.

14 Q You did not know he was coming over?

15 A Hu huh. (Negative).

16 Q Of course not cause you wouldn't---

17 A No.

18 Q ---you wouldn't put him in that situation at all?

19 A No.

20 Q All right. But you agree -- you understand that, when
21 he got there, he had no idea what was going on?

22 A Correct.

23 Q And he sees a gun and, at first, two people who he
24 doesn't -- that he didn't know that they were two males were
25 in his house, right?

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 A Correct.

2 Q Okay. So, of course, he was scared, concerned?

3 A Yes.

4 Q Is that right?

5 A Yes. Yes.

6 Q Okay. And then you went and picked up his mom, right?

7 A Yes, I did.

8 Q Okay. And, and you don't really know any of the events
9 that happened after that?

10 A No, we just walked to the back.

11 THE COURT REPORTER: I'm sorry?

12 THE WITNESS: I said we just walked to the back of my
13 apartment --

14 Q Okay.

15 A -- where the police were.

16 Q Once you got, once you got back to the apartment,
17 everything had already transpired, right?

18 A Yes.

19 Q Okay. And, and, like you said, from the time that --
20 let me ask you this.

21 You said that Thomas was sleeping, sleeping on the
22 floor, right?

23 A Yes.

24 Q And you've seen the picture from Xaviera's phone?
25 Have you seen it?

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 A No.

2 Q Okay. So, you had said that Xaviera and Brianna went
3 to the store?

4 A The gas station.

5 Q The gas station to get some -- something to eat or
6 something?

7 A Something to drink.

8 Q Oh, something to drink.

9 And, Your Honor, may I approach, Your Honor?

10 THE COURT: Yes.

11 Q I'm showing you Defendant's Exhibit 2. This is already
12 been admitted.

13 You haven't seen this photo before, right?

14 A No, I didn't.

15 Q Do you recognize it though?

16 A Yeah.

17 Q Okay. What is, what is that?

18 A That's Thomas.

19 Q That's Thomas laying on the floor?

20 A It is.

21 Q Okay. You would agree with me that his shoes are off,
22 right?

23 A Yeah, I think.

24 Q Okay. And it -- and it's dark?

25 A Yes.

Kiara Pelzer - Cross-examination
By Ms. Zmroczek

1 Q Is this about what the room looked like when, when
2 Channen came in the -- the darkness I mean?

3 A When he first came in?

4 Q Right.

5 A Yes, it was.

6 Q And so, it wasn't bright like this?

7 A No.

8 Q Okay. You don't know at what point Thomas woke up and
9 put his shoes back on, do you?

10 A No, I don't.

11 Q Okay. Do you know if he had them on when they, when
12 they were fighting with Channen?

13 A I don't know.

14 Q No clue?

15 A I don't know.

16 Q Okay. And the only person to introduce the gun in this
17 situation was Travis?

18 A Yes.

19 Q Yes?

20 A Yes.

21 Q Thank you.

22 SOLICITOR WILLIAMS: Your Honor, may I proceed?

23 THE COURT: Yes.

24 REDIRECT EXAMINATION

25 BY SOLICITOR WILLIAMS:

Kiara Pelzer - Redirect examination
By Solicitor Williams

1 Q Kiara?

2 A Yes.

3 Q When Ms. Zmroczek was attempting to impeach you about
4 that letter you wrote to Mr. Kristen---

5 A Yes.

6 Q ---was there anything in that letter that was different
7 than was in the statement that you gave to Investigator
8 Johnson?

9 A I'm not even sure. I don't -- I can't even remember
10 the letter. I mean I remember, you know, writing the letter
11 but, but I don't remember it.

12 Q You don't remember the letter?

13 A The wording of it, no.

14 Q Okay. And I made a mistake. You gave your statement
15 to Investigator Jerry Maldonado.

16 A Yes.

17 Q Okay.

18 SOLICITOR WILLIAMS: Your Honor, may I approach?

19 THE COURT: Yes.

20 Q Do you remember, in cross-examination, when Ms.
21 Zmroczek asked you whether or not you said Travis said he
22 didn't want to have to kill anybody in your letter?

23 A Uh-huh. (Affirmative).

24 Q You remember that?

25 A I remember that. I remember him saying that.

Kiara Pelzer - Redirect examination
By Solicitor Williams

1 Q Okay. And you wrote that in that letter?

2 A Yeah, I did.

3 Q All right. I'm showing the witness State's Exhibit 9
4 and do you recognize this document?

5 A I do.

6 Q Okay. And what is this document?

7 A My statement.

8 Q Okay. And that's your signature there, right?

9 A It is.

10 Q Okay. And is this statement in the same condition and
11 accurate reflection of what it was when you signed it?

12 A It is.

13 Q Okay. All right. All right. Could you read starting
14 here please?

15 A Where it says Travis?

16 Q Yes, ma'am.

17 A Travis told me that he hoped that my baby's daddy
18 didn't come home because he and his brother, Thomas, they
19 described -- he said that he didn't want to have to kill
20 somebody.

21 Q Okay. So, you told that to Investigator Maldonado
22 when?

23 A The night that -- well, that morning. That -- this
24 morning.

25 Q All right. And you put that in your letter to

Kiara Pelzer - Redirect examination
By Solicitor Williams

1 Investigator into -- to Attorney Kristen, right?

2 A Yes.

3 Q On cross-examination, you were asked about a gun,
4 right?

5 A Right.

6 Q Okay. All right. And I think the question was did
7 anyone bring a gun other than Travis, right?

8 A Correct.

9 Q Could you explain what you meant when you wrote that in
10 your letter?

11 A When I said what?

12 Q When you said that Travis was the only one that brought
13 a gun.

14 A Oh, cause I was asked did Channen have a gun and I told
15 them no, the only gun was Travis gun.

16 Q Okay. Now, was that the same gun that you saw Channen
17 shoot into the ceiling with?

18 A Yes.

19 SOLICITOR WILLIAMS: Your Honor, at this time the State
20 seeks to enter into evidence State's Exhibit 9, the
21 statement.

22 MS. ZMROCZEK: I think, for the purposes of this
23 hearing, if Your Honor needs it, I mean I, I --.

24 THE COURT: Generally statements of a witness are not
25 admissible in evidence. They can be used for impeachment

Kiara Pelzer - Redirect examination
By Solicitor Williams

1 purposes but generally, in criminal proceedings, the only
2 statements that are admissible are the defendants. I'll
3 check. I could be wrong.

4 SOLICITOR WILLIAMS: And the only reason I'm seeking --
5 the State is seeking to, to enter it, Your Honor, she was
6 impeached with a -- I guess you would call that -- she was
7 -- I think the defense sought to impeach her with extrinsic
8 evidence using the extrinsic evidence against the statement
9 that she has here written. That's the only reason the State
10 would seek to enter State's Exhibit 9.

11 THE COURT: I think, under the rules, the statement's
12 not admissible but she's testified from the statement.
13 She's read portions of it. So, it's a prior, it's a prior
14 statement by her, and the other statement, the letter was
15 the prior inconsistent statement it's alleged by the
16 defense. That's not admissible either but the content of --
17 the contents were read. So, the statement's still not
18 admissible itself.

19 SOLICITOR WILLIAMS: Thank you, Your Honor.

20 THE COURT: But she read from the statement. So,
21 that's in evidence.

22 SOLICITOR WILLIAMS: Thank you, Your Honor.

23 (Pause.)

24 SOLICITOR WILLIAMS: Your Honor, beg the Court's
25 indulgence.

Kiara Pelzer - Redirect examination
By Solicitor Williams

1 (Pause.)

2 Q All right. Now, your -- in your May 25th, 2014,
3 statement to Jerry Maldonado, what did you say in reference
4 to Channen's use of a gun?

5 A He asked me did you see Channen shoot the gun at Travis
6 as Travis ran by the room. I said I didn't see Channen
7 shoot but I wasn't sure what he was shooting -- I did see
8 Channen shoot but I wasn't sure what he was shooting at, and
9 he said did he shoot at the same time Travis is running by
10 the room and I said I don't think so. Travis had already
11 ran by the room.

12 Q Okay. So, today is not the first time that you gave
13 any statement regarding Channen with a gun, is it?

14 A No.

15 Q Okay. And I wasn't clear, on cross-examination, it
16 seems as if you stated that Travis was in your child's room?

17 A No, I didn't but I say he was never in my child's room.

18 Q He was never in your child's room?

19 A Yes.

20 Q Okay. You were asked a question about a text message
21 you said?

22 A Yes.

23 Q MF'ers playing on my phone.

24 A Oh, that was a Facebook.

25 Q Yes, ma'am.

Kiara Pelzer - Redirect examination
By Solicitor Williams

- 1 A Facebook.
- 2 Q What was, what was that about?
- 3 A Somebody called my phone yesterday playing on the
- 4 phone.
- 5 Q Yesterday as in?
- 6 A After I left Court. It was about eight o'clock.
- 7 Q Okay. And what did you write on Facebook?
- 8 A I said now MF'er is going to play on the phone. That
- 9 was it.
- 10 Q All right. You testified you were asked whether or not
- 11 Channen knew what was going on once he walked into your,
- 12 your house that night.
- 13 A Uh-huh. (Affirmative).
- 14 Q Okay. Is it fair to say that he knew what was going on
- 15 once he left your house that night?
- 16 A Once he left, yeah. Not when he came in.
- 17 Q Was it, was it obvious that you were having a
- 18 relationship with another man?
- 19 A I wouldn't call it a relationship.
- 20 Q Having sex with another man.
- 21 A Yes.
- 22 Q But once you left, once Channen left, that -- everyone
- 23 was aware of that, right?
- 24 A Yes.
- 25 Q Now, you were asked whether or not Channen seemed

Kiara Pelzer - Redirect examination
By Solicitor Williams

1 concerned about the gun being in the house --

2 A Yes.

3 Q -- right?

4 was he concerned?

5 A Yeah.

6 Q Did he have the same concern when he shot in the
7 ceiling of your child's room?

8 A No.

9 SOLICITOR WILLIAMS: All right. No further questions
10 for this witness.

11 MS. ZMROCZEK: I just have one follow-up, Your Honor.

12 THE COURT: Yes, ma'am.

13 RECROSS EXAMINATION

14 BY MS. ZMROCZEK:

15 Q Okay. Beginning of that statement -- you still have
16 the statement?

17 A No, I don't.

18 Q Okay. Beginning of that statement that you gave
19 Investigator Maldonado, how -- did he record that statement?

20 A Record?

21 Q (Nods affirmatively.)

22 A No, he just typed it.

23 Q He was just typing?

24 A Yes.

25 Q And he was just typing what you were saying, right?

Kiara Pelzer - Recross examination
By Ms. Zmroczek

1 A Correct.

2 Q And, and so, he -- so, at the -- first thing -- first
3 paragraph, first thing he said, Channen was still in the
4 bedroom with me when I heard a gunshot?

5 A Where?

6 (Pause.)

7 A Yes.

8 Q What's that?

9 A I said yes.

10 Q Yes.

11 So, you said Channen was still in the bedroom with me
12 when I heard a gunshot?

13 A Yes.

14 Q Okay. Thank you.

15 THE COURT: You may step down.

16 Let's take a brief break and then we'll come back.

17 (Whereupon, a short recess was taken at this time.)

18 MS. ZMROCZEK: Your Honor?

19 THE COURT: You may call your next witness.

20 MS. ZMROCZEK: Your Honor, before they call your next
21 witness or their next witness, which I believe is
22 Investigator Johnson, we had a motion to compel all
23 discovery last week in front of Hood, Judge Hood, and there
24 was an issue of Giglio material.

25 THE COURT: Who?

1 MS. ZMROCZEK: We had a motion to compel in front of
2 Judge Hood and there was an issue about Giglio material---

3 THE COURT REPORTER: About what?

4 MS. ZMROCZEK: ---regarding Mr. Johnson.

5 THE COURT REPORTER: Giglio?

6 MS. ZMROCZEK: Giglio. It's G-I, G-I or I'll get it
7 for you. It's a case.

8 And so, and what Judge Hood said is, as, as the rule
9 requires and I know Your Honor is familiar with that, it's
10 suppose to be turned over to the judge for review if there
11 is any Giglio material, and I know that he told her to turn
12 it over to the trial judge. However, I think it would be
13 relevant in an immunity hearing. I don't, I don't know
14 where we stand on that.

15 THE COURT: Well, weren't y'all suppose to meet with
16 Judge Hood on Monday?

17 SOLICITOR SAMPSON: Yes, ma'am. She was not -- Ms.
18 Zmroczek was not here Monday morning. At that point, the
19 only thing that we're suppose to meet with Judge Hood about
20 was whether the 9-1-1 should be held in contempt for not
21 answering a subpoena and whether the rental -- Richland
22 village Apartment Complex, someone from their office, should
23 be held in contempt for not answering a subpoena.

24 In the order that he signed, he told -- he stated that
25 I would turn the Giglio, any Giglio material over to the

1 trial judge. It says nothing about this hearing.

2 THE COURT: And so, what material are we talking about?

3 SOLICITOR SAMPSON: I don't have it because we're
4 not -- I asked the person who was suppose to collect it, who
5 was the attorney for the Sheriff's Department, Brent All, to
6 bring -- to get that information to provide to me prior to
7 trial so that I could then give it to the trial judge.

8 I have been in here through all this week. I asked her
9 to do it. We got that order on Wednesday. I asked her to
10 start gathering it on Wednesday. I have not emailed, called
11 her, contacted her in any way, shape, or form since that
12 time period cause I was suppose to provide it to the trial
13 judge.

14 So, for all I know, there isn't any but she is
15 collecting that information and is suppose to provide it to
16 me at the time in which I can give it to the trial judge.

17 THE COURT: Now, tell me again what the material is
18 suppose to relate to.

19 SOLICITOR SAMPSON: Ms. Zmroczek said -- all she's ever
20 said was Giglio material. After reading Giglio, it's my
21 understanding that would be any information relevant in his
22 personnel file having to do with whether he had misconduct
23 or whether he had any allegations of -- I can't -- I don't
24 have the case in front of me but allegations of misconduct
25 or lying or anything of that nature. I don't know of any

1 but I told Mrs. All to check her personnel file, check
2 anything that they have at the Sheriff's Department, and
3 provide that if there was any so that the trial judge could
4 review it and determine whether that was admissible and
5 needed to be turned over.

6 As far as I know, there isn't any. I've asked them to
7 tell me there isn't any. I asked her if she knew there
8 wasn't any but she was going to go check.

9 THE COURT: And so, Judge Hood's order didn't
10 contemplate any Castle Doctrine hearing or the Protection of
11 Persons & Property Act.

12 SOLICITOR SAMPSON: We did state to him that there was
13 a hearing coming up and that we would be having that but he
14 did not tell me that we needed to provide it or to that
15 hearing. He said specifically to a trial judge.

16 THE COURT: Anything further, Ms. Zmroczek?

17 MS. ZMROCZEK: No, Your Honor, and Mr. -- Investigator
18 Johnson did call me on Sunday. We did discuss a little bit
19 of that past misconduct. So, I mean I think I can, you
20 know, go forward and be like -- if it comes to that point
21 but I feel obviously we have had a lot of discovery issues
22 in here, and it was -- it is set for trial on Monday. I
23 don't know who the trial judge is gonna be. I don't -- and
24 I don't know if we're gonna even need one. I'm not
25 presuming to know what's gonna happen.

1 But I just wanted to just make the Court aware of it
2 but I, I mean I don't want to hold up this hearing any
3 longer. I think it's gone on long enough. So, I, I, I'll
4 be prepared to just cross-examine Investigator Johnson
5 without that material and we'll just, we'll just see how it
6 goes, Your Honor. I just wanted to make the Court aware
7 that, that issue was still out there. I mean I -- when we
8 filed our original Rule 5 back in 2014, we had requested
9 that information but we're, we're ready to continue.

10 THE COURT: It probably, it probably should be turned
11 over, should of been turned over prior to the, the hearing
12 in this particular matter. However, I think that the --
13 because it appears to relate to credibility of the witness,
14 which is something we consider during the course of any
15 hearing where this witness is testified. Given, however,
16 the nature of this particular hearing, I think that the
17 issues can be -- while issues of credibility are, are most
18 certainly important, that there may be somewhat less
19 important as it relates to the nature of, of the hearing,
20 the hearing under the Act and so---

21 THE COURT REPORTER: I'm sorry.
22 What did you---

23 THE COURT: The hearing under the Act. And so, I will,
24 I will -- I'll allow it to go forward without the material.
25 However, Monday is too late for any trial judge to get ahold

1 of that material. So, it needs to be sent to their office
2 or be able to -- I don't know who's here next week but it
3 needs to be done before that time --

4 SOLICITOR SAMPSON: Yes, ma'am.

5 THE COURT: -- in order to get them an adequate
6 opportunity to review it before.

7 SOLICITOR SAMPSON: Should I give it to both Your Honor
8 and the other judge since I don't know which trial judge it
9 is?

10 THE COURT: I have no idea who's doing what.
11 Okay. Let's proceed.

12 SOLICITOR WILLIAMS: Thank you, Your Honor.

13 THE COURT: Call your next witness.

14 SOLICITOR WILLIAMS: The State calls Tammy DePace.

15 TAMMY DePACE, being first duly
16 sworn, testified as follows:

17 THE CLERK: Thank you. Have a seat in the witness
18 stand please.

19 (Witness complies.)

20 (WHEREUPON, a service request was marked as State's
21 Exhibit No. 32. Two invoices were marked as State's Exhibit
22 Nos. 33 and 34. All of the above exhibits were for
23 identification purposes only at this time.)

24 THE COURT: State your full name please.

25 THE WITNESS: Tamara DePace.

Tammy DePace - Direct examination
By Solicitor Williams

1 THE COURT: And spell your last name please.

2 THE WITNESS: D-E-P-A-C-E.

3 THE COURT: And will you spell your first name?

4 THE WITNESS: T-A-M-A-R-A.

5 THE COURT: Thank you.

6 DIRECT EXAMINATION

7 BY SOLICITOR WILLIAMS:

8 Q Ms. DePace, what do you do for a living?

9 A I'm a property manager for Westminister Company.

10 Q Okay. And does Richland Village fall under
11 Westminister Company?

12 A Yes, it does.

13 Q Okay. And how familiar are you with their business
14 records when it relates to tenants---

15 A I'm very familiar.

16 Q ---in the apartments?

17 Very familiar?

18 A Yes, I've been with the company for ten years.

19 SOLICITOR WILLIAMS: Your Honor, may I approach?

20 THE COURT: Yes.

21 SOLICITOR WILLIAMS: And the State is showing the
22 witness State's Exhibit 32.

23 Ms. DePace, could you identify that document?

24 A That is a work order, a service request.

25 THE COURT REPORTER: I'm sorry?

Tammy DePace - Direct examination
By Solicitor Williams

1 THE COURT: I'm sorry. I didn't understand a word of
2 that.

3 THE WITNESS: A work order or a service request.

4 THE COURT REPORTER: Just back off the microphone a
5 little bit.

6 THE WITNESS: Okay.

7 THE COURT REPORTER: Thank you. And then speak loudly.

8 THE WITNESS: Okay.

9 Q Is that document kept in the normal course of business
10 at Richland Village?

11 A Yes, it is.

12 SOLICITOR WILLIAMS: The State is showing the witness
13 State's Exhibit 33.

14 Ms. DePace, please identify that document.

15 A That's an invoice.

16 Q Okay. And is that invoice also kept in the normal
17 course of business at Richland Village?

18 A Yes, it is.

19 SOLICITOR WILLIAMS: Okay. The State is showing the
20 witness State's Exhibit 34.

21 Ms. DePace, what is that?

22 A That is another invoice.

23 Q Okay. Now, are all these invoices a fair and accurate
24 reflection of invoices produced by Richland Village?

25 A Yes, they are.

Tammy DePace - Direct examination
By Solicitor Williams

1 SOLICITOR WILLIAMS: Okay. Your Honor, the State would
2 move to enter State's Exhibit 32, 33, and 34 into evidence.

3 THE COURT: Any objection?

4 MS. ZMROCZEK: Without objection, Your Honor.

5 THE COURT: They're admitted.

6 (WHEREUPON, State's Exhibit Nos. 32, 33, and 34 were
7 received into evidence at this time.)

8 Q Ms. DePace, tell the Court about State's Exhibit 32.

9 A That is a service request that was put in for a window
10 repair, and, under comments, it states that the living room
11 window was broken, blinds broken in the second bedroom, and
12 a hole in the second bedroom ceiling, and to change all
13 locks. Don't know---

14 Q What apartment complex was that for?

15 What apartment number?

16 Excuse me.

17 A

18 Q Okay. And is the resident listed there?

19 A Yes, it is.

20 Q Who's the listed resident?

21 A Kiara Pelzer.

22 Q Thank you, Ms. DePace.

23 Ms. DePace, could you please tell the Court about
24 State's Exhibit 33?

25 A It is an invoice for Barry DeLeon with BWM Renovations

Tammy DePace - Direct examination
By Solicitor Williams

1 for sheetrock repair and roof repair for, you know, [REDACTED]

2 Q Okay. And when would those repairs performed?

3 A The invoice does not state the day it was performed.

4 It shows the date that it was submitted for payment.

5 However, the work order does have May 28th as the date it
6 was completed.

7 Q Okay. Ms. DePace, please tell the Court about State's
8 Exhibit 34.

9 A It is an invoice for Century Glass for a window
10 replacement, window and sash replacement for [REDACTED].

11 Q Okay. All right. And does the service order has --
12 have the completion date?

13 A It does not. The service order on that one says that
14 the glass company came to measure the window on that date
15 but it does not state the day that the window was actually
16 replaced. I'm sure they had to order the glass.

17 Q Understandable.

18 what date did they come and measure the window?

19 A 5/28.

20 (WHEREUPON, the recertification document was marked as
21 State's Exhibit No. 35 for identification purposes only at
22 this time.)

23 SOLICITOR WILLIAMS: All right. The State is showing
24 the witness State's Exhibit 35.

25 Could you identify this document, Ms. DePace?

Tammy DePace - Direct examination
By Solicitor Williams

1 A It is a certification questionnaire that we use during
2 a recertification process. It's for HUD housing.

3 Q Okay. Is that document kept in the normal course of
4 business?

5 A Yes, it is.

6 Q Okay. And is it a fair and accurate reflection of all
7 the certification and recertification questionnaires kept at
8 Richland village?

9 A Yes, it is.

10 SOLICITOR WILLIAMS: Okay. Your Honor, at this time
11 the State would move to enter State's Exhibit 35 into
12 evidence.

13 MS. ZMROCZEK: Without objection.

14 Q What is the purpose---

15 THE COURT: That exhibit's admitted.

16 SOLICITOR WILLIAMS: Thank you, Your Honor.

17 (WHEREUPON, State's Exhibit No. 35 was received into
18 evidence at this time.)

19 Q What is the purpose of a recertification or
20 certification questionnaire?

21 A With HUD housing, we recertify someone for their -- to
22 adjust their rent, if, if necessary, once a year and that's
23 an annual recertification, and then in-between time, if they
24 have a change such as income change, household change, like
25 that, they would come in and let us know and we would do an

Tammy DePace - Direct examination
By Solicitor Williams

1 interim recertification.

2 Q Okay.

3 A And this one is from an annual recertification.

4 Q Okay. Who are the members listed of occupying -- the
5 family members listed as occupying [REDACTED]?

6 A Kiara Pelzer, and I don't know how to pronounce her
7 name, Navaya P. [REDACTED], a child.

8 Q All right. And how many adults are listed?

9 A Only one. Kiara.

10 Q Okay. And who's that again?

11 A Kiara Pelzer.

12 Q Thank you.

13 what's the date of this recertification?

14 A This questionnaire -- we have, we have 120 days to
15 perform this. This questionnaire was dated August 13, 2013.
16 It was for her annual recertification effective
17 November 1st, 2013.

18 Q Okay. What, if any, changes does she list to the size
19 of her family on that recertification?

20 A She does list that she's expecting to have a change in
21 the next year because she's having a baby [REDACTED] of
22 [REDACTED].

23 Q Would the baby have to be listed as an occupant of the
24 apartment?

25 A When the baby is born, yes, they would be added to the

Tammy DePace - Direct examination
By Solicitor Williams

1 lease. Anyone who moves in or out of the apartment, that
2 has to be adjusted on their HUD paperwork.

3 Q If Miss Pelzer wanted to add someone to her lease,
4 would she have the opportunity to do that at anytime?

5 A Yes.

6 Q Thank you, Ms. DePace.

7 I beg the Court's indulgence.

8 (Pause.)

9 SOLICITOR WILLIAMS: Your Honor, no further questions
10 for this witness.

11 MS. ZMROCZEK: No questions.

12 THE COURT: You may step down.

13 THE WITNESS: Thank you.

14 THE COURT: You may call your next witness.

15 SOLICITOR SAMPSON: Yes, Your Honor.

16 The State calls Investigator Kerry Johnson.

17 KERRY JOHNSON, being first duly
18 sworn, testified as follows:

19 THE CLERK: Thank you. Have a seat in the witness
20 stand.

21 (Witness complies.)

22 THE COURT REPORTER: Would you spell your name for
23 the---

24 THE CLERK: State your name for the record.

25 THE WITNESS: My name is Kerry, K-E-R-R-Y, Johnson,

Kerry Johnson - Direct examination
By Solicitor Sampson

1 J-O-H-N-S-O-N.

2 THE COURT: I'm sorry. I didn't hear the -- I heard
3 the spelling of the first name but what's the last, what's
4 the last name?

5 THE WITNESS: I'm sorry?

6 THE COURT: I didn't hear your answer. Please repeat
7 your name.

8 THE WITNESS: Kerry, K-E-R-R-Y. Middle name is Edwin.
9 Last name is Johnson, J-O-H-N-S-O-N.

10 THE COURT: Thank you.

11 THE WITNESS: Thank you.

12 DIRECT EXAMINATION

13 BY SOLICITOR SAMPSON:

14 Q Investigator Johnson, how long have you been with the
15 Sheriff's Department?

16 A May was ten years.

17 Q Ten years.

18 And have you always been an investigator?

19 A I've been an investigator probably about six years out
20 of those ten years.

21 Q What were you before that?

22 A With the Lexington County Sheriff's Department for 18
23 years and almost two years with the Columbia City Police
24 Department. March of 1986 is when I started. So, I've been
25 in law enforcement a little more than 30 years.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q And, during that time, you have done, I'm sure, several
2 hundred investigations.

3 How many do you think you've done in this time period?

4 A It's impossible to say. I've responded to -- are you,
5 are you talking about investigations in general---

6 Q In general.

7 A ---or homicide investigations?

8 Q In general.

9 A There's no way to say.

10 Q And I'm just gonna try to get this first bit out. I'm
11 gonna take you to May of 2014.

12 What were your job duties at that point in time?

13 A I was assigned to the special victim's unit stationed
14 at our Pineview office. However, I was also what we call a
15 primary homicide investigator. It's kind of like a dual
16 role.

17 On this particular day, we, at that particular time, I
18 think we were going on evening shift at about every eight
19 weeks and it was my turn for evening shift. Jerry --
20 Sergeant Jerry Maldonado, at the time, was the evening shift
21 supervisor.

22 Q And by evening shift, when do you start and when do you
23 stop?

24 A Evening shift starts on a Thursday night at midnight
25 and it goes to the following Thursday night at midnight.

Kerry Johnson - Direct examination
By Solicitor Sampson.

1 And there's probably four or five investigators assigned to
2 that evening shift. Each one has different schedules
3 throughout the, throughout the week.

4 Q And so -- but you're not on call the entire week?
5 I mean --?

6 A Well, actually, as a primary homicide investigator, I'm
7 on call the entire week.

8 Q So, even if you're at home, you have to respond if
9 that's---

10 A Correct.

11 Q So, on this particular day, when did you first become
12 involved with this case?

13 A Although the incident happened, I think our first
14 officer arrived somewhere around 5:48. Sergeant Maldonado
15 had already contacted some other investigators to assist in
16 the investigation, and he, I guess, he was letting me sleep.
17 So, I think I got a call from him at, according to my notes,
18 at 7:27 in the morning.

19 Q Okay. So, some of the -- would it be fair to say that
20 some of the investigation, in terms of talking to people,
21 had been done before you were even notified?

22 A Either underway or before, yes.

23 Q In fact, Miss Pelzer, who testified this morning, she
24 didn't speak with you initially, correct?

25 A No, when I had gotten -- I went straight to Pineview,

Kerry Johnson - Direct examination
By Solicitor Sampson

1 which is not far from where the incident occurred, and
2 they -- Sergeant Maldonado was in -- questioning Kiara and
3 Investigator Golf was getting a statement from her cousin,
4 Brianna, and that was going on when I got there.

5 Q And when you say Pineview, that's where you -- that's
6 your headquarters?

7 A Yes, that's a -- like a satellite building for the
8 Sheriff's Department. Until recently it was occupied by the
9 Coroner's Office as well as the special victim's units and
10 some other units. Just recently the Coroner's Office moved.
11 It's at 1901 Pineview Drive right off of Garners Ferry Road
12 in Lower Richland part of Columbia.

13 Q So, when someone talks about going to headquarters on
14 Two Notch, that's also a headquarter station for the
15 Sheriff's Department, correct?

16 A Yeah, it's at -- matter of fact, we refer to that as
17 headquarters and we refer to Pineview as either Pineview or
18 I call it The View.

19 Q Okay. So, Kiara Pelzer, Brianna Pelzer, and Xaviera
20 Richardson were actually interviewed by other people,
21 correct?

22 A Correct.

23 Q But they did give statements?

24 A Correct.

25 Q Based on -- were you able to review those statements?

Kerry Johnson - Direct examination
By Solicitor Sampson

1 A I was.

2 Q Okay. Did you talk to Maldonado and Golf after they
3 spoke with these people or how did that work?

4 A Yes, we -- when I got there, I was briefed on what had
5 happened, what had been done. I was allowed to look at the
6 statements so I could get a good grasp of what was going on.
7 It was then that I learned that Channen Ricks was the one
8 who had actually been identified as the shooter. I'm
9 familiar with Channen Ricks. I knew exactly who he was.

10 Q And I'm gonna slow it down a little bit and -- while
11 you-all are at Pineview or even before you get there, are
12 anybody at the incident location doing anything?

13 A Yes, as in any situation such as this, as soon as we
14 have an identified crime scene, we tape it off and we would
15 call, of course, crime scene investigators, Coroner's
16 office, whoever needs to come, and that scene is held and
17 secured by uniform police officer until we deem it necessary
18 to not secure that scene anymore.

19 Q And was that done in this case?

20 A Yes.

21 Q And, in fact, a crime scene log would -- a log was done
22 showing who went in and out?

23 A That's correct.

24 Q And you, that day, didn't actually go to the scene?

25 A Yes, I did.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q That day?

2 A That day I did.

3 Q Were you---

4 A Later on but it was after everything had been broken
5 down. It was not -- there was no crime scene tape up or
6 anything at that time.

7 Q So, you weren't there when they were taking the
8 photographs of the body and the---

9 A I was not.

10 Q ---and the shell casings?

11 A I was not.

12 Q But you were given all of that information?

13 A Yes.

14 Q Is that normal in your investigation?

15 A Yes.

16 Q So, I believe you said -- so, they asked -- you
17 identified Channen Ricks as someone that you wanted to speak
18 with?

19 A Oh, yes.

20 Q So, what did you do?

21 A I could tell you from memory but let me check my notes
22 as far as the chronological.

23 I'd gone out to the scene. One, I wanted to look and
24 there's a lot of bushes out there. I wanted to look in, in
25 the bushes to see if maybe the gun had been thrown anywhere

Kerry Johnson - Direct examination
By Solicitor Sampson

1 in the bushes.

2 Q Did you find any gun?

3 A I did not. I wanted to try to locate and question any
4 potential witnesses. This is an apartment complex communal
5 type living. There's a lot of people out and about. There
6 was a group, you know, making comments about what had
7 happened the night before. So, I approached the group and
8 questioned if anyone there had seen anything. Nobody had.
9 So, there was nothing that I could do there.

10 I'm not sure exactly when it was but I met Kiara back
11 over there so I could take a look at the apartment itself.
12 I think---

13 Q Did you---

14 A I think that was around this same time and it was then
15 that I, I found some other evidence in there.

16 Q And when you say back there, where do you mean?

17 A I'm sorry?

18 Q When you said I met with Kiara back there.

19 A Back at the incident location, [REDACTED]. That was
20 after she had been interviewed and her statement had been
21 signed by her.

22 Q And I---

23 (WHEREUPON, a photograph was marked as State's Exhibit
24 No. 36 for identification purposes only at this time.)

25 Q I believe you just testified that you went to the

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By Solicitor Sampson

1 apartment and you found other evidence.

2 what were you talking about?

3 A As I was inside with Kiara, she was explaining to me
4 the chain of events and she indicated that Channen had shot
5 one time inside the room and---

6 Q What room was she talking about?

7 A Where the kids were, in the, in the front bedroom. And
8 I went into the bedroom looking for a bullet hole and
9 straight up above me I saw a hole in the ceiling, which was
10 obviously, to me, a bullet hole.

11 Q I'm gonna show you what's been marked as State's
12 Exhibit No. 36 and ask if you recognize that.

13 A Yes, that -- that's a picture of the hole that I saw
14 that day.

15 Q Does that photo accurately reflect what you saw the day
16 of this incident?

17 A It did. I couldn't see the sunlight through there as
18 good but it's obvious that the, the bullet went straight
19 through the ceiling and out the roof.

20 SOLICITOR SAMPSON: At this time we'd ask to introduce
21 State's 36 into evidence.

22 MS. ZMROCZEK: Without objection, Your Honor.

23 THE COURT: It's admitted.

24 (WHEREUPON, State's Exhibit No. 36 was received into
25 evidence at this time.)

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q Now, we've already had these introduced but tell us, is
2 this the -- is State's No. 4, is that the bedroom where
3 you're discussing?

4 A Yes.

5 Q And is that what -- that's exactly what it looked like?

6 A It did.

7 Q Okay. And what is in State's Exhibit No. 5?

8 A That is a shell -- a spent shell casing, a .40 caliber.

9 Q And where was that?

10 A On the floor in the bedroom where -- right near where I
11 saw the bullet hole.

12 Q And State's Exhibit No. 31, does that show it as well?

13 A It does.

14 Q And what is that little yellow marker?

15 A Excuse me. That is a marker that is used commonly to
16 mark evidence. In this case, the shell casing that is found
17 on the floor.

18 Q And how far -- can you estimate how far into the
19 bedroom that casing was found?

20 A While the room itself is not really that big, I would
21 say a couple steps.

22 MS. ZMROCZEK: Your Honor, I just don't know if he's
23 capable of -- I think he (sic) asked her (sic) to estimate
24 how far in. I just don't know what his -- I didn't know if
25 they measured it or if she's just now asking to do that.

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1 THE COURT: Rephrase the question.

2 Q Did you walk into the apartment?

3 A I did. It --.

4 Q How many steps did it take you to get from the door to
5 the -- that marker?

6 A About two or three. I have about a 3-foot stride I
7 would think.

8 Q And so, it was definitely inside of the---

9 A Yes.

10 Q And what did that indicate to you?

11 A That -- well, that, and where the bullet hole was, that
12 somebody was clearly inside that room when the gun was
13 fired. It wasn't fired -- and the reason it was hard to
14 see, the ceiling had heavy stippling on it as you see in
15 some of these apartments, and you could not see it if I was
16 standing in the hallway, which indicated to me that it was
17 not shot at an angle, that it was almost as if somebody was
18 standing there shooting straight up because I had to
19 actually walk up underneath it and look up to see it.

20 Q And you said stippling. In lawyer's terms, we use
21 stippling for so various things. So, I'm gonna show you
22 State Exhibit No. 3.

23 A Yeah.

24 Q Is that the ceiling?

25 A Yes.

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By Solicitor Sampson

1 Q And what do you mean by stippling?

2 A The stippling is -- I call it stippling. I'm sorry. I
3 don't know. Whatever is used to put a texture on the
4 ceiling.

5 Q So, you're talking about the textured ceiling?

6 A Sure.

7 Q Like the popcorn ceiling or whatever it is?

8 A Right. Right.

9 Q Not like stippling when we say like---

10 A Correct.

11 Q ---where a bullet mark is?

12 A Correct.

13 Q Okay. Just wanted to be clear.

14 All right. So, you had photo -- clearly, did you take
15 those photographs or did you have -- call someone and have
16 them take those photographs?

17 A A crime scene investigator took those photographs. I
18 notified the crime scene investigator after I saw the bullet
19 hole and he had actually missed it when he first came out
20 and he came back and rephotographed.

21 Q And after that, what did you do?

22 A Sometime around that time I remember I was still in the
23 area because I pulled off the side of the road. I got a
24 phone call from the desk sergeant asking if I was the lead
25 investigator in the case, which I was. He informed me that

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1 Channen Ricks' mother was wanting to talk to the
2 investigator. I got her phone number. I called her.

3 She, she stated who she was and that she knew that
4 Channen had been involved somehow in a shooting, and she
5 indicated that she had -- that he had called her to come
6 pick up her car. And she told me, over the phone, that he
7 had left it at the 7UP Convenience Store, which is a real
8 popular little convenience store at the corner of Leesburg
9 Road and Greenlawn. And then she also said that she would
10 have him call me cause she didn't know where, she didn't
11 know where he was.

12 So, about 11:17, according to my notes, Channen did
13 call me and, again, I know Channen from the past. I
14 recognized his voice. He called me from (803)603-8998.

15 Q And I'm gonna stop you for a second.

16 Did you know that phone number?

17 A I didn't know what that was, no.

18 Q That's all I wanted to know.

19 Go ahead.

20 So, he called you?

21 A He was, he was kind of hard to understand. He was
22 crying, sobbing.

23 Q Were you able to ask him any questions?

24 A I was. He -- told him I'd like to meet with him. He
25 kept repeating I ain't no murderer, man. And I explained to

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By Solicitor Sampson

1 him that -- and he goes I didn't take a gun over there, and
2 I explained to him that I knew, based on the statements that
3 had been given, that he had not taken a gun over there but
4 that there was still somebody dead that I needed to talk to
5 him about.

6 Q Did you tell him that someone was dead at that point?

7 A I think I did, yes, ma'am.

8 Q All right. Go ahead.

9 A Cause I asked him specifically and I made a note of
10 that in my notes in my follow-up how many times did you
11 shoot, and his answer was I don't know, man. It all
12 happened so fast. Then I asked him well, where's the gun?
13 And he answered I don't know what I did with it. I was
14 drunk.

15 Q So, I'm gonna break that down.

16 So, he told you he was drunk?

17 A Yes.

18 Q Okay. And he told you he didn't know where the gun
19 was?

20 A Correct.

21 Q Did he ever tell you that he left it at his cousin's
22 house?

23 A I never heard what he did with the gun until he
24 testified yesterday.

25 Q And you said he was crying all the time?

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By Solicitor Sampson

1 A Oh bad, yeah. I mean just sobbing. I'd had no --
2 sounded to me like he was still intoxicated but it was real
3 kind of hard to tell. He was just so emotional and --.

4 Q Did you -- what did you ask him to do?

5 A I told him he needed to come and turn himself in to me.

6 Q Did he say that he would?

7 A And he said he wanted to talk to his mother first about
8 getting bond money up. That was his big concern. And I
9 told him that if I had not heard back from him by 1:00PM
10 that day, now, keep in mind, that's 11:17 that I was
11 speaking to him, that I was gonna A, start looking for him.
12 He promised he'd call me back at 1:00PM.

13 Q Did he?

14 A No, 1:00PM came and went. At 1:14PM I called that
15 number back and it went straight to voice mail, which
16 indicated that it was turned off. And at 2:04PM I called
17 back again and got a message that time saying the voice mail
18 was not set up.

19 Q And when he was talking to you---

20 A I want, I want to clarify that.

21 Q I'm sorry.

22 A At 1:14 and 2:04, both times, I beg your pardon, it
23 went straight to the voice mail and it said the voice mail's
24 not set up. Again, indicating that the phone was likely
25 turned off.

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By Solicitor Sampson

1 Q Okay. Well, when he, when he was on the phone with
2 you, did he give you a number to call him at?

3 A No, he would not.

4 Q He didn't give you his cell phone number?

5 A Hu huh. (Negative).

6 Q Did his mother ever give you her -- his cell phone
7 number?

8 A No, ma'am.

9 Q And what did you do at that point?

10 A Went -- again, my office at Pineview was very close. I
11 was able to go right back there and I went ahead and typed
12 up the warrant worksheet based on the probable cause that I
13 had for murder, emailed it to the Bond Court. Sergeant
14 Maldonado went down to the Bond Court and signed the
15 warrants so we could get it entered into the NCIC. In case
16 he was located, he could be arrested. So, then I went to
17 Channen Ricks' house where---

18 Q And I'm gonna stop you for just a second.

19 You stated that, at that point, you felt like you had
20 probable cause for an arrest warrant?

21 A Correct.

22 Q Had anyone, at that point, told you that, during the
23 altercation in the home, that there was a murder in the
24 apartment?

25 A No.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q Any evidence that there was anyone shot in the
2 apartment?

3 A None.

4 Q All you're able to show that someone was shot in the
5 parking lot?

6 A Correct.

7 Q And, in that parking lot where the shooting occurred,
8 it was not in front of Miss Pelzer's apartment, correct?

9 A No.

10 Q All right. So, you went -- you got an arrest warrant
11 and I interrupted you. I'm sorry.

12 A Again, I knew where Channen lived on Frazier Street.
13 It's kind of weird right there where Frazier and Walcott
14 kind of come together. If you don't know the exact layout
15 of the addresses, you can be confused but I knew exactly
16 where his mother's house was. I went there, made contact
17 with her, and there were several family members out in the,
18 I guess family members, there were several people out in the
19 yard and, of course, I asked everyone if they knew where
20 Channen was. Nobody knew. How I could get in touch with
21 Channen, nobody would offer how I could get in touch with
22 him.

23 I knew that the car there was the car that he had used
24 the night before based on the statements given by Kiara and
25 based on what she had told me, the mother, that she went to

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By Solicitor Sampson

1 go pick up the car. I asked her if I could get consent to
2 search the vehicle and she allowed me to search it.
3 Obviously, I was looking for anything that was connected to
4 the crime. Mainly the weapon, which I didn't find anything
5 inside.

6 I gave her my card with my cell number in which they
7 had already had, and told her to please have Channen get in
8 touch with me as soon as possible because I knew that she
9 was in communication with him.

10 Q So, from that time through the rest of May 25th, did
11 you ever have any contact from Channen Ricks?

12 A No, I didn't talk to him anymore that day. I went back
13 to my office and immediately put out a, a wanted poster
14 through our departmental email, and then I went to go try to
15 locate Travis Tucker at his residence at Masonry Circle.

16 Q And you were able to locate Mr. Tucker at some point,
17 correct?

18 A At some point. Not that day. There was nobody there
19 and I left my card, again, with my cell phone. He would
20 call me later that afternoon and he agreed to meet with me
21 at ten o'clock the next day at my---

22 Q Did he?

23 A He did.

24 Q Okay. And he gave you a statement?

25 A He did.

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By Solicitor Sampson

1 Q Okay. I'm not gonna go into his statements.

2 At this point, you still haven't talked to Channen

3 Ricks, correct?

4 A Not after that first time, no.

5 Q Now, let's be clear, Travis Tucker never admitted to

6 you that he had a gun?

7 A That's correct.

8 Q And, in fact, you charged him for that?

9 A Correct.

10 Q What did you charge with him?

11 A Obstruction of justice.

12 Q And why did you do that?

13 A We had several people that said he brought the gun to
14 the residence. So, during the commission of a police
15 investigation, he lied. So, he was charged with obstruction
16 of justice.

17 Q Okay. So, when does Mr. Ricks next contact you?

18 A While I was actually talking to Travis and getting his
19 statement, Channen called me from the same number that he
20 called me from the day before, again, still emotional, still
21 saying I'm not a murderer, I didn't bring a gun, and that---

22 Q Was he crying at this point?

23 A He's still crying, yes.

24 Q Okay.

25 A Said that he was gonna turn himself in but still wanted

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By Solicitor Sampson

1 to talk to his mother first, which he had told me that the
2 day before. I explained to him, at that time, I didn't have
3 any choice but to do a news release and I gave him a
4 deadline. I said if, if you have not turned yourself in by
5 noon, I have no choice but to do a news release on you and
6 he did not want that to happen.

7 Q So, what time did he turn himself in?

8 A He begged for me actually not to do that. At 12:07, I
9 received a call from the front desk informing me that
10 Channen Ricks was actually in the front parking lot with
11 some family members. So --.

12 Q Now, do you let him come into the headquarters or do
13 you go out there?

14 A They were all in the front parking lot toward the road
15 actually.

16 Q And is this headquarters at Two Notch or Pineview?

17 A This is at 5623 Two Notch, yes, ma'am.

18 Q So, you said you went into the parking lot and got him?

19 A I did.

20 Q And I think we've already heard this but there were
21 several people out there?

22 A Yes, there was -- I know -- I believe his mother was
23 there and some other family members. I, quite frankly, I
24 was focused so much on him I really didn't focus that much
25 on everyone else but I'm guessing five or six people

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By Solicitor Sampson

1 standing around. I could be wrong.

2 Q Okay. And you took him inside?

3 A Yes, if I remember correctly, probably took him to the
4 front door. I may of driven around the back. At that time,
5 I think that gate was not locked and I was able to drive
6 around back. I don't remember if I took him through the
7 front or the back.

8 Q And once you get him inside, do you advise him of his
9 rights?

10 A I did. This was -- should be noted that was on a
11 Sunday, that nobody was really there that day. Took him to
12 Sergeant Robinson's office. My office was back at Pineview.
13 So, what we do in those situations, we borrow somebody
14 else's office that leaves a computer on that we can take a
15 statement, and I'd already used that office many times.

16 So, I went there and, at some point, I noticed that
17 Investigator Ty Jordan was in the building. He was in plain
18 clothes. I think he came there just to take care of some
19 personal business or whatever. And because of the nature of
20 the charge, and I wanted someone in there with me while I
21 spoke to him, and I asked Ty to come in and sit and he did.

22 Q He stayed the whole time?

23 A I think, I think, at one point, he got up. Once he
24 kind of realized that Channen wasn't gonna talk without a
25 lawyer, he went ahead and left.

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By Solicitor Sampson

1 Q I'm gonna break it down a little bit.

2 You read him his rights?

3 A Uh-huh. (Affirmative).

4 Q You advised him.

5 Yes?

6 A I'm sorry. I beg your pardon. Yes.

7 Q And you had -- he signs the advice of rights form?

8 A He did.

9 Q And, at that point, does he agree to talk to you?

10 A No, he, he was still saying that -- he told me that he
11 had a key and I explained to him that, you know, Kiara had
12 told us that he had a key to the apartment and he---

13 Q I'm sorry. Did he give you a key?

14 A He did not give me a key.

15 Q Okay. Go ahead.

16 A He told me that he had a key to the apartment, and I
17 explained to him that that was, my opinion, not an issue.
18 The fact that there was a man shot in the back was what I
19 wanted to talk to him about. He kept---

20 Q Did he---

21 A He was very lethargic. I'd ask him had he had any
22 sleep. He said no, he'd been up -- obviously, he'd been up
23 all night partying the night before the incident, and then,
24 after the murder, he stayed up. I asked him had he been
25 doing any type of drugs. He said he'd been smoking some

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By Solicitor Sampson

1 marijuana. So, I really wasn't, based on his condition, I
2 wasn't real comfortable trying to get a statement from him
3 anyway. However, I was letting him talk and he just kept
4 saying, and crying, crying the entire time, I'm not a
5 murderer. I didn't bring a gun there. I'm not a murderer.

6 So, after I went over the rights with him, he just
7 didn't seem to want to talk. So, I had Investigator Jordan
8 read the warrant to him, and when I read the warrant -- when
9 the warrant got read to him, there was a part in there where
10 he said he committed -- he admitted to it based on my
11 questioning. He didn't like that at all and it was at that
12 time he said he felt like he needed to talk to an attorney.
13 It's almost apologetic. He said I promise I'll talk to you
14 but I want to talk to you without my attorney.

15 Q Okay. So, I want to break that down a little bit
16 because I'm looking at your report.

17 In your report you note that he said he, he had a key
18 but he knocked first?

19 A Yes.

20 Q Did he say that to you?

21 A I'm sorry?

22 Q Did he say that to you?

23 A Yes, and I asked him why. I said why would you knock
24 if you had a key. And he said it was kind of their
25 understanding that she would bring the baby to the door.

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By Solicitor Sampson

1 Q At 5:00 in the morning?

2 A Yeah, that she would bring the baby to the door to
3 greet him and that's why he would always knock before he
4 went in.

5 Q Okay. And did he tell you about trying to -- I think
6 the next thing you wrote down is he tried to enter but
7 there's something on the door or something to that effect?

8 A He said he tried to enter the door and that someone was
9 behind the door blocking the door and wouldn't let him in.
10 So, he forced his way past the person and immediately
11 somebody that was on the floor grabbed his leg and the other
12 person began to fight with him.

13 He stated that it was very dark in the apartment but he
14 could see that the person standing was trying to pull out a
15 gun. So, he fought with that person but doesn't remember
16 anything that happened after that.

17 Q Okay. So, he doesn't, according to what he told you
18 back then, he didn't remember anything after the fight?

19 A He remembered going up to the door, trying to get in,
20 somebody grabbed his leg, but once the fight started, he had
21 no memory.

22 Q So, he didn't tell you anything about their being a
23 second fight in the parking lot?

24 A Nope. Never did.

25 Q He didn't tell you---

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By Solicitor Sampson

1 A No, ma'am.

2 Q ---anything about running to another apartment for
3 safety?

4 A He never mentioned anything about that.

5 Q He never told you about going through the window
6 instead of the front door when he left the apartment?

7 A He never did. He did say that he got busted in the lip
8 and he was crying. He pulled his lips back to show me at
9 which time I told him I'd like to take a picture of it.

10 Q And did you take a picture?

11 A I did. I took a picture -- we're taught to take a
12 picture of the entire person and then come in so you can
13 tell it's the same person. The first picture I took was him
14 sitting on the chair and then I asked him to peel his lips
15 back so I could see the injury that he was talking about and
16 I took a picture of that and that is included in my
17 follow-up.

18 THE COURT REPORTER: Included in your --?

19 THE WITNESS: Follow-up.

20 Q I believe we -- State's Exhibit No. 21, is this the
21 photograph that you took of --?

22 A It is.

23 Q Okay. And that's the way he appeared in your office?

24 A Yes.

25 Q And State's Exhibit No. 22?

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By Solicitor Sampson

- 1 A Correct, same picture.
- 2 Q And that's the picture of the cut to his mouth?
- 3 A Yes.
- 4 Q Did he have any other injuries?
- 5 A No, he did not.
- 6 Q Did -- were -- as best you can tell, was he -- was his
7 clothing torn?
- 8 A Not that I could see.
- 9 Q Was there any blood on his clothing?
- 10 A None.
- 11 Q And was that the same clothing he had on the night it
12 all occurred, morning all of this occurred?
- 13 A I would learn later, yes. I did not know that until I
14 saw the, the video.
- 15 Q Okay. And we'll talk about the video in a minute.
- 16 A Or until -- I don't remember if it's when I saw the
17 video or if I sent a -- I sent a picture to Kiara and said
18 is this what he was wearing that night, and I think, one of
19 those ways, I was able to confirm.
- 20 Q Okay. And so, the only thing you knew from Mr. Ricks,
21 at that point, was that there was a fight that ensued in the
22 apartment and that he couldn't remember anything after that?
- 23 A Nothing. He also said that he could not remember what
24 he told me the day before when I pointed out to him.
- 25 Q Okay. And that would of been on May 25th when he

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By Solicitor Sampson

1 called you?

2 A Correct.

3 Q So, on May 27th, you then, I believe, get the 9-1-1
4 call or that you learned -- I'm sorry.

5 You learned that there was a call to 9-1-1?

6 A Yes, I contacted dispatch on the day of the incident
7 and I had asked for the number that they received the 9-1-1
8 call and the name. They did give me that. I called that
9 number and made contact with a fellow by the name of Tommy
10 Goodwin who lives in Apartment 601. He stated that he did
11 call 9-1-1 because he heard gunshots but that he nor his
12 mother had witnessed anything.

13 I've checked on our in-house system for Tommy Goodwin
14 and saw that he had filed a police report on January the
15 13th using that same address, same phone number as is on
16 that report.

17 Q Okay. So, in your report you also note that you
18 asked -- that you-all were able to obtain video footage from
19 the apartment complex?

20 A Yes.

21 Q There had been a whole lot of questions and talking
22 about this video.

23 How did you ask investigator or who did you ask to go
24 obtain that video?

25 A Well, at that particular time, there's either Mike

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1 Poole or Brian Metz were the ones that were in charge of
2 getting video for us. I think, in my notes, I put Brian
3 Metz but I actually spoke to Mike Poole that weekend, and I
4 would of talked to him by phone because it's the weekend.
5 Many times my county email does not load on my phone. So, I
6 would not have sent him just an email over the phone. I
7 would call him and told him that we needed the video from
8 Richland Village. Keep in mind the next day was Memorial
9 Day.

10 Q The 26th was Memorial Day?

11 A Yeah -- no, the 20th -- yes. So, nobody was there and
12 he went out and got the video footage. I explained to him
13 the dates and the times that I needed. Likely between
14 5:00 and 6:00 I think it was.

15 Q Did you tell him what to do when he goes and gets the
16 video or did you just tell him to obtain the video?

17 A Well, I told him to get the video, to download the
18 video that was available from the system.

19 Q Did you know how many cameras were in that?

20 A I had no idea. I didn't -- I'd never seen that
21 particular system before.

22 Q Did he come back with video?

23 A Yes, he did. He came back with a disk, and one thing I
24 asked him to note, it's been my experience that a lot of
25 these cameras that, the time is off an hour because of

Kerry Johnson - Direct examination
By Solicitor Sampson

1 daylight savings time. So, I asked him to check that and he
2 did and turned out it was off an hour.

3 Q And when you say off an hour, was it too far ahead or
4 too far behind?

5 A Behind. Say, for example, in my notes where I put
6 4:20:03, the correct time should of been 5:20:03.

7 Q And you provided that video to evidence, correct?

8 A Correct.

9 Q And you've watched this video with me, correct?

10 A I have.

11 Q Does this fairly and accurately depict what you were
12 given back in May of 2014?

13 A Yes.

14 SOLICITOR SAMPSON: At this time, the State would like
15 to introduce State's Exhibit No. 17.

16 THE COURT: Any objection?

17 MS. ZMROCZEK: No objection.

18 THE COURT: It's admitted.

19 (WHEREUPON, State's Exhibit No. 17 was received into
20 evidence at this time.)

21 SOLICITOR SAMPSON: This will take just a minute, Your
22 Honor, for him to --.

23 (Pause.)

24 MS. ZMROCZEK: Your Honor, just so we continue with
25 what we discussed earlier, obviously the video is what it

Kerry Johnson - Direct examination
By Solicitor Sampson

1 is. What, what I am gonna have concerns with is Ms., what
2 Mr. Johnson purports that it shows. Like what people are
3 thinking, things like that. If he, if he tries to testify
4 to any of that, I just -- I would object to what he believes
5 they are thinking.

6 THE COURT: And---

7 MS. ZMROCZEK: And---

8 THE COURT: You can, you can object at that particular
9 time.

10 MS. ZMROCZEK: Thank you, Your Honor.

11 THE COURT REPORTER: And, for the record, it will be
12 clearer if you don't talk until the video's finished.

13 SOLICITOR SAMPSON: The video has no audio on it.

14 THE COURT REPORTER: But just know -- okay.

15 Q For the record, I just stated that this video has no
16 audio.

17 Is that true?

18 A Correct.

19 Q All right. So, is this the video you were provided?

20 A It was.

21 Q Okay. And as we see, there are five cameras, correct?

22 A That are -- seem to be working, yes.

23 Q Okay. And Camera Number 9, that is the front of
24 Building 4, correct?

25 A I believe that's correct, yes.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q Okay. And that would be -- it -- if you use State's
2 Exhibit No. 3 -- No. 8, that's this building?

3 A Right, this would be -- you can just barely see Verdale
4 Drive here.

5 Q So, this -- that's Verdale Road?

6 A Correct.

7 Q And so, this is what we see and that is this right
8 here?

9 A Correct.

10 Q Okay. And Camera 8, this is---

11 A This is directly behind the office.

12 Q Okay. And on State's Exhibit, this exhibit, that would
13 be this right here where this red line is?

14 A That's correct. This is -- right here, it picks up
15 about right here. There's a little---

16 Q Where you're pointing, there's a little bush shown
17 here---

18 A Yeah, there's a little---

19 Q ---with the red light?

20 A There's a little storage building right here that you
21 can barely see there, and this back here goes out to
22 Universal Drive and this building here would be the 200
23 Building---

24 Q Okay.

25 A ---back in -- here.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 THE COURT REPORTER: I'm sorry. Two hundred Building
2 what?

3 THE WITNESS: The back of the 200 Building.

4 Q Camera 5, Camera 5 shows this right -- this area
5 through here where it -- between Building 6 and 8, correct?

6 A That's correct.

7 Q All right. And Camera 11 shows this area right here
8 where -- going between Building 14 and 13?

9 A That's correct.

10 Q All right. And all -- when I'm saying the buildings
11 that I'm pointing, it's the State's Exhibit No. 8.

12 A Okay.

13 Q All right. So, this is the footage that was provided
14 to you?

15 A That's right.

16 Q And on this we see time. This is -- and they all start
17 at 4:18:59.

18 Is that correct?

19 A That's the time shown on the video but, as I mentioned
20 earlier, it's an hour behind. The actual time would be
21 5:00.

22 Q Okay. Okay. All right. So, as it's playing, Camera 9
23 that -- somewhere -- I would ask you to just talk about
24 Camera 9 when we start seeing them coming.

25 (Pause.)

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q And, again, Camera 9 shows in front of Building 4.

2 Stop it.

3 Who -- what is that?

4 A That is---

5 Q I'm sorry.

6 A That's been identified as Travis Tucker running away
7 from what would be Building Number 5 over here. He appeared
8 to be running in through the breezeway of Building Number 4.

9 Q Again, I'm gonna use just, for clarification, can you
10 show on, on State's Exhibit No. 8, there's a -- this is the
11 breezeway that goes between 401, 403, 406, and 408?

12 A What we just saw was Travis Tucker running about right
13 here and he goes through the breezeway and he's gonna come
14 out right here and you're gonna see him again running behind
15 the office.

16 Q Let me play it a couple -- and now we're looking at
17 Camera 8.

18 Stop it.

19 Now, who is that?

20 A That's still Travis Tucker. Because of everything that
21 happened as quick as it did, he didn't get his shirt on.
22 What is about to happen here is---

23 MS. ZMROCZEK: I -- go ahead. I'm sorry.

24 A Okay. What I've learned from Travis is that he got
25 shot many years ago. He's got a bad thing -- he's got, I

Kerry Johnson - Direct examination
By Solicitor Sampson

1 think, pins in his leg. Shortly after this he's on the
2 phone.

3 Q Go ahead and play.

4 Is that where you're talking about?

5 A Yeah, you see where he falls and he gets back up and
6 you'll continue to play it, and then he continues to run in
7 front of Building 2, 200 Building, toward Universal Drive.

8 Q Now, I'm gonna play the rest and stop it.

9 Do you ever -- you watched all this but did you ever
10 see Travis Tucker appear on any other footage that you're
11 provided?

12 A I did not.

13 Q Okay. Now, I'm gonna have you look at Camera 11.

14 What do you see in the corner right there?

15 A Well, simultaneously, as Travis Tucker's running here,
16 our victim, Travis Pauling---

17 Q Thomas Pauling.

18 A Beg your pardon. That happened at the beginning.
19 Thomas Pauling emerges from behind this building.

20 Q And that's Building 14, correct?

21 A You'll see there. That's these buildings here. So,
22 this being Kiara's apartment here, he is run some way and
23 ended up over here and he's about to emerge between these
24 two building.

25 Q Okay. So, that's what, as you watch it, that's what

Kerry Johnson - Direct examination
By Solicitor Sampson

1 you're talking about?

2 A Yes, that's Thomas Pauling.

3 Q And how do you know that's Thomas Pauling?

4 A Because of his clothing.

5 Q white shorts?

6 A Yeah.

7 Q Black shirt?

8 A Yeah.

9 Q Okay. Stop it for a second.

10 All right. So---

11 A And where he's located later.

12 Q This is Camera 5 and Camera 5 is -- we've -- is right
13 here in front of these buildings?

14 A That's correct.

15 Q All right. Go ahead and play Camera 5 or play it
16 forward. I'm sorry.

17 Stop it.

18 what do you start to see right there?

19 Stop it.

20 A That's Thomas Pauling and especially in this picture
21 here you can see, from the clothing, that that is him.

22 Q And in what direction is his head turned?

23 THE COURT REPORTER: I'm sorry. What direction --?

24 SOLICITOR SAMPSON: What direction is his head turned.

25 A Can I tell you?

Kerry Johnson - Direct examination
By Solicitor Sampson

- 1 Q Yes, sir.
- 2 A And he has coming out here, he's actually looking this
- 3 way.
- 4 Q Towards --?
- 5 A Back towards Kiara's apartment.
- 6 Q Okay. Go ahead. Go ahead and play the whole thing.
- 7 And then he walks off camera?
- 8 A Correct. I don't---
- 9 Q Stop it.
- 10 A I don't see him again on the footage that I was given.
- 11 Q And he was walking off towards this way or this way?
- 12 A He was walking, from what I just saw on the footage, in
- 13 this direction here.
- 14 Q Towards -- up, upwards---
- 15 A Correct.
- 16 Q ---towards eight, seven, up this way?
- 17 A Correct.
- 18 Q Do you ever see Thomas Pauling again on any video?
- 19 A Not on the footage I was given.
- 20 Q And, at that time, it's 4:20 or 5:21?
- 21 A Correct.
- 22 Q Go ahead and play it. I'm gonna talk while it plays.
- 23 Now, this is gonna play for a few minutes.
- 24 Do you see, for a while, for a minute, you don't see
- 25 any, any movement, correct?

Kerry Johnson - Direct examination
By Solicitor Sampson

1 A That's correct.

2 SOLICITOR SAMPSON: With the Defense's permission, I
3 will speed up to where you see movement.

4 Okay. I want to---

5 THE COURT: There shouldn't be any conversations
6 please.

7 THE WITNESS: I'm sorry.

8 Q All right. I sped it up just so we wouldn't have to
9 watch three minutes of footage.

10 What is that?

11 Stop it.

12 A Stop.

13 Q She can't. Be right there.

14 A That is Channen Ricks running in this direction that
15 Travis Tucker has run approximately five minutes before.

16 Q I'm gonna show you State's Exhibit No., Nos. 23 and 24
17 because that plays in real time, correct?

18 A Correct.

19 Q When you are able to slow it down, were you able to
20 take still footage, still photos?

21 A I was.

22 Q What does State's Exhibit No. 23 show?

23 A This is a picture of Channen Ricks wearing the striped
24 Polo shirt.

25 Q In that, that picture?

Kerry Johnson - Direct examination
By Solicitor Sampson

1 A Same picture here. So, he's a little closer right
2 here. As he gets right up underneath this light, as he is
3 running---

4 Q State's Exhibit 24.

5 A ---this picture here, what they would do to get a still
6 shot, as he was running, in my opinion, he's holding
7 something.

8 SOLICITOR SAMPSON: Objection.

9 THE WITNESS: Beg your pardon?

10 THE COURT: She's objecting to your characterization of
11 what you see.

12 Is that correct?

13 MS. ZMROCZEK: Correct.

14 THE COURT: Any response?

15 SOLICITOR SAMPSON: Your Honor, I think I can lay a
16 foundation of why he makes this opinion if Your Honor would
17 allow me some latitude.

18 THE COURT: You want to ask him the question, submit a
19 foundation before he gives his opinion?

20 SOLICITOR SAMPSON: Yes, ma'am.

21 Q You stated that you, you viewed this video?

22 A Yeah.

23 Q How many times did you view this still shot?

24 A I've looked at the still shot, this particular shot, in
25 particular, numerous times.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q And it -- what were you looking for?

2 A To see if anything was in his hands.

3 Q And have you ever looked at photos before to try to
4 identify what's in peoples' hands?

5 A Sure.

6 Q How often have you done that?

7 A Anytime I look at a video. Dozens.

8 Q And how familiar are you with what a gun appears to be?

9 A Very.

10 Q How, how come?

11 A Carried one on my side for 30 years, looking at videos
12 for 30 years, being a police officer for 30 years.

13 Q And based with, with that knowledge of what guns look
14 like, what was your opinion as to what was in his hand?

15 A One thing I noticed right here that you can see the
16 horizontal stripes of his shirt. There's something that
17 breaks up that horizontal stripe back there which seems to
18 be protruding from his hand which appears to be a handgun.

19 Q And that is---

20 MS. ZMROCZEK: Correction.

21 Could be a handgun?

22 THE WITNESS: (Nods affirmatively.)

23 Q That's your opinion, correct?

24 A Correct.

25 Q And you provided those still shots as well to myself

Kerry Johnson - Direct examination
By Solicitor Sampson

1 and to the defense, correct?

2 A Correct.

3 Q All right. You can go ahead and play.

4 what do you see after this shot?

5 A Ironically, he is going to come right back out front

6 here where Travis Tucker ran away from the house earlier.

7 Q So, in Camera 9, you're going to see Channen Ricks come
8 down in the same manner that Travis Tucker went up?

9 A Yes, however, he's going to stop running.

10 Q Stop it.

11 A And he's going to slow, and one thing I notice is that,
12 as he's walking, he's reaching back putting what appears to
13 be putting something in his waistband.

14 Q All right. So, this is 5:00 -- at 4:25:40 according to
15 the camera time.

16 Is this what you're talking about as far as Mr. Ricks?

17 A Correct.

18 Q Okay. Go ahead and play.

19 And is that what you're talking about as far as his
20 movements?

21 A Correct. You can do a frame-by-frame right there.

22 He's reaching behind him.

23 Q That's -- all right. In any of the video as to any of
24 the other video, there's a few more minutes of the footage.

25 Do you see any other people -- activity?

Kerry Johnson - Direct examination
By Solicitor Sampson

1 A None.

2 Q Any other people in the area?

3 A None.

4 Q Anyone else with a gun?

5 A None.

6 Q Were you ever provided any other information that
7 anyone in this complex was later that morning with a gun?

8 A No.

9 Q That's all.

10 THE COURT: Just need to make sure we get the exhibit
11 back.

12 SOLICITOR SAMPSON: We -- I had a copy in here. The
13 exhibit never left the table.

14 Q All right. So, you did update -- were able to get that
15 video footage, correct?

16 A Yes.

17 Q Did you ever collect Mr. Ricks' clothing?

18 A I did.

19 Q Did it appear to have anything wrong with it?

20 A No.

21 Q Okay. You said that there were some photographs taken
22 by the crime scene investigators of the actual scene?

23 A Right.

24 (WHEREUPON, fourteen photographs were marked as State's
25 Exhibit Nos. 37 through 50 for identification purposes only

Kerry Johnson - Direct examination
By Solicitor Sampson

1 at this time.)

2 MS. ZMROCZEK: Your Honor, I have no objection to those
3 photographs.

4 THE COURT: I'm sorry?

5 MS. ZMROCZEK: I have no objection to them.

6 SOLICITOR SAMPSON: She has no objection when I ask to
7 introduce State's Exhibit Nos. 37 through 50 into evidence.

8 THE COURT: Thirty-seven through what?

9 SOLICITOR SAMPSON: Fifty.

10 THE COURT: And they're admitted without objection.

11 (WHEREUPON, State's Exhibit Nos. 37 through 50 were
12 received into evidence at this time.)

13 Q All right. Mr. -- Investigator Johnson, when the
14 deputies first get there and they mark, there's some yellow
15 ribbons.

16 what are those or plastic?

17 A The yellow markers or the pink ribbons?

18 Q The pink. I'm sorry. The pink ribbons.

19 A This particular incident, Deputy Crutchlow actually
20 laid the pink ribbon down to ensure that nobody would
21 accidentally run over or kick or whatever some of these
22 casings. I read in his report that he marked those exactly
23 how he found them. The yellow markers, of course, were put
24 there by the crime scene investigator when photographing the
25 scene.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q Okay. So, this first one, State's Exhibit 37, what
2 does that depict?

3 A Locations of spent cartridges.

4 Q So, it shows a -- A.H. is a spent cartridge?

5 A Yes.

6 Q What about A.G.?

7 A Same.

8 Q What about A.F.?

9 A Same.

10 Q And what about A.E.?

11 A That's the same.

12 Q And---

13 A Four spent cartridges.

14 Q So, there's four spent cartridges.

15 How many times have you fired a .40 caliber weapon?

16 A It's hard to say. We were issued Glock .40 calibers,
17 well, from the time I came to the Sheriff's Department.
18 Numerous times.

19 Q And how does a casing eject from the gun?

20 A Back and to the right. Like I say, for example, if
21 we're at the firing range, we're about three, four feet --
22 three or four feet apart. They ask us to wear hats because
23 a lot of times the round can be ejected and, and actually
24 land right onto the person sitting next to you. So, three
25 or four feet away.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q Do they eject ten to fifteen feet away?

2 A No, never.

3 Q Okay. What were the, the traveling of these or the
4 spacing of these bullet casings?

5 what did that mean to you?

6 A That means that the shooter was walking or moving at
7 the time he was shooting cause they were in different
8 locations. They were progressing toward where Thomas
9 Pauling's body was found. And also that it was somewhat of
10 a -- perhaps a straight-line.

11 Q And based on your knowledge of weaponry, would -- if
12 the shot was fired in this grassy area as indicated on
13 State's Exhibit No. 8, would you expect to find the shell
14 casings where you did?

15 A Absolutely not.

16 Q In State's Exhibits 50, 49, 48, and 47, are all four of
17 those close-up shots of the shell casings?

18 A Correct. They are.

19 Q State's Exhibit No. 38, what is that?

20 A This is a, a view from, as you can see the, the sheet
21 here covering the victim, this is the view from this
22 building back toward, I don't want to get my building
23 numbers wrong, back toward Building 600 from what, what is
24 300.

25 Q Oh, 600 is right here?

Kerry Johnson - Direct examination
By Solicitor Sampson

1 A Correct.

2 Q So, this would be fair to say this is standing near the
3 victim going the other direction?

4 A That's correct.

5 Q State's Exhibit 39, what is that?

6 A Those are markers. What appears to be blood.

7 Q And are they -- nevermind.

8 State's Exhibit 40, what does it show?

9 A This is a picture actually from over from the office
10 area back toward the 700, 800 Building. This would be the
11 600 Building over here and looking toward the two buildings
12 that Thomas Pauling walked in-between coming this way on the
13 video.

14 Q So, on the video, fair to say, when we see him walking,
15 he's somewhere in this area?

16 A Correct.

17 Q Okay. I want to point you to---

18 A Coming, coming from in-between these two buildings.

19 Q Okay. I want to point you to this grassy area over
20 here to the left of the photo by this blue car---

21 A Right.

22 Q ---in State's Exhibit 40.

23 Is that indicated -- is that the same grassy area that
24 we see on State's Exhibit No. 8 that's circled?

25 A It is.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q If I -- if shots were fired from that grassy area,
2 would you expect to see bullet casings where you do?

3 A Somebody would actually have to pick them up and take
4 them over there.

5 Q They wouldn't have naturally came there out of the gun?

6 A No, absolutely not.

7 Q Okay. And I just want you to -- State's Exhibit No.
8 44, 45, and 46, are those all pictures of the -- what
9 appears to be blood?

10 A They are.

11 Q Shown by markers A.B., A.C., and A.D.?

12 A They do. They are.

13 Q And were you ever provided a cause of death for
14 Mr. Pauling?

15 A I was.

16 Q And what was -- what were -- what was his cause of
17 death?

18 A Injuries sustained by gunshot wounds.

19 Q Were you ever told that there were any exit wounds?

20 A Yes, and I actually saw the pictures up underneath one
21 of his arms. There was what appeared to be an exit and then
22 another entrance back into his arm.

23 Q Were there ever any indication that he was shot near
24 the front of his body?

25 A No.

Kerry Johnson - Direct examination
By Solicitor Sampson

1 Q Where were all of the bullet holes?

2 A In his back from the middle maybe to the lower part of
3 the back.

4 Q Did the -- anyone know of any injuries -- well, excuse
5 me.

6 Did anyone note to you or provide to you information
7 about stippling on the victim's body?

8 A No.

9 Q How about soot?

10 A None.

11 SOLICITOR SAMPSON: Beg the Court's indulgence please.

12 (Pause.)

13 Q How many times was the victim shot?

14 A At least three. I think that one up underneath his
15 arm, I think, was just a -- the way one of the shots
16 traveled through. So, three times in the back.

17 Q And none to the front?

18 A None to the front.

19 SOLICITOR SAMPSON: No further questions, Your Honor.

20 THE COURT: Cross.

21 MS. ZMROCZEK: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. ZMROCZEK:

24 Q Investigator Johnson, you're the lead investigator in
25 this case, right?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 A Yes, ma'am.

2 Q You are responsible for directing the investigation?

3 A Yes, ma'am.

4 Q You're responsible for requesting forensic testing?

5 A Correct.

6 Q You are responsible for following up and learning what
7 that testing shows?

8 A Yes, ma'am.

9 Q You are responsible for making sure that, when you ask,
10 you, you fill out a forensic request, you ask for some
11 specific information, that you've received that information,
12 right?

13 A Correct.

14 Q Okay. So, let's talk about the video first.

15 Oh, and after you, you expect this, what is the
16 protocol in, in Richland County?

17 what are they suppose to do?

18 A You need---

19 Q For after when you make a request.

20 A You need to be more specific.

21 Q Okay. If you make a request for something, you fill
22 out a form.

23 where does that form go?

24 A It depends upon the request. Again you'd have to be
25 more specific. I'm not sure what you're talking about.

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 Q Okay. Does that form get uploaded into a program to be
2 given out in discovery?

3 When you make a request for the videos, what did you do
4 with that requests?

5 A On, the videos. Okay.

6 Q Let's be real clear. In relation to the video, what
7 did you do?

8 A Well, this particular incident, whenever you request a
9 video, it's our procedure to fill out a forensic request
10 form. This particular incident, because I spoke to
11 Investigator Poole by phone, he actually filled it out /
12 himself, which is what we do sometimes, and he completes a
13 follow-up and it goes into our A System, System, which is
14 our in-house reporting system.

15 Q Was this form in your A System?

16 A The form, I don't think it was.

17 Q No explanation as to why it wasn't?

18 A No.

19 Q Okay. Did you review the form at least?

20 A Not -- no, not after he filled out the form because he
21 provided me with the video that I needed. I called him over
22 the phone and requested the video and he got me the video.

23 Q Okay. Do you have the case jacket with you?

24 A Yes.

25 Q Do you have a copy of the form request now?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 A I believe I do.

2 Q Did you---

3 A It will take me a minute to get to it. I take that
4 back. I saw the form yesterday but I don't think I have a
5 copy right here in front of me.

6 MS. ZMROCZEK: Your Honor, may I approach and see?

7 A Investigator Poole had the form with him yesterday.

8 Q And would that -- you've seen the form now?

9 A Yes, that's the form.

10 Q Okay. So, when you looked at the form and you saw that
11 there were movement on the cameras at 4:16, which we know is
12 5:16, to 4:18:18, which we know is 5:18, and you didn't see
13 that when you reviewed the video, did you ever go to Poole
14 and say hey, what was this?

15 A Nope. Sure did not.

16 Q Just didn't follow-up?

17 A Wasn't aware of that until recently.

18 Q Okay. But you are the lead investigator, right?

19 A That's right.

20 Q Okay. That fell through the cracks?

21 A I wouldn't call it that. When I got the video, I
22 looked at every camera angle for evidence and every screen
23 that was showing on the video that I was given I viewed, and
24 what I saw and what I took the screen shots of is what I saw
25 on the video.

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 Q And you asked him to get any video that showed
2 anything?

3 A Well, I requested that he go and pull video between a
4 certain time and all inclusive video. There was never any
5 discussion about get this camera or that camera. Just get
6 all the video that's available.

7 Q So, so, it's your testimony that only five cameras were
8 available?

9 A I requested him to get the video that was available.

10 Q Okay. She asked you about State's Exhibits 46, 44, and
11 45 and she said do those appear to be blood.

12 A Correct.

13 Q But you got the report back on those, right?

14 A I don't know if I have that right here in front of me.
15 So, I can not say.

16 Q You recall that report saying that that was actually
17 paint and not blood?

18 A I don't recall that at this time. I don't.

19 Q You don't recall?

20 A I don't.

21 Q Okay. When Investigator Lee, who's the crime scene
22 investigator, when he collects items of evidence, does he
23 submit them for testing or does he ask you what gets
24 submitted for testing?

25 A No, he does not submit them for testing.

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 Q So, that's your choice?

2 A Well, there's a couple things that can happen.

3 Normally, on a Monday morning, which, again, this was a
4 Memorial Day, so the holiday, we always have a meeting with
5 the major, whoever else is involved in the murder and people
6 from the lab would be there and, at that time, requests
7 would be made to process any evidence.

8 Q At that time in---

9 A If it hadn't already been done earlier.

10 Q In May of 2014?

11 A Correct.

12 Q And so, at that time, did -- were requests made for
13 gunshot residue analysis on the victim's hands?

14 A Yes, and that had been sent to SLED---

15 Q And---

16 A ---to be analyzed.

17 Q And was that ever followed up on?

18 A It was followed up on recently and we learned that SLED
19 had never processed it.

20 Q And that was followed up on at the request of the
21 defense, correct?

22 A Correct.

23 Q And then what about the, the nail scrapings under
24 the -- they took -- there was actual scrapings from the
25 victim's hands?

Kerry Johnson - Cross-examination
By MS. Zmroczek

1 A That has recently been asked to be tested.

2 Q By the defense?

3 A Correct.

4 Q And have we gotten those results back yet?

5 A We have not.

6 Q Okay.

7 A Not to my knowledge.

8 Q Okay. And the phones, you had Mr. Ricks' phone, right?

9 You collected that?

10 A Correct.

11 Q You admit that you made a call on it because you wanted
12 to get the phone number?

13 A Correct.

14 Q Okay. Are you familiar, in your 30 years of
15 investigating, that that can manipulate data within the
16 phone?

17 A I -- that has never occurred to me.

18 Q Okay.

19 A And I'm not convinced that it can.

20 Q You're not convinced that it can?

21 A Nope.

22 Q So, you're convinced that Mr. Ricks deleted this 9-1-1
23 call?

24 A I am not aware of a 9-1-1 call. So, therefore, I don't
25 know who deleted a 9-1-1 call if one was deleted.

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 Q Okay. As the lead investigator, you're not aware that,
2 within ten minutes of all of this going down, that a 9-1-1
3 call was made?

4 A Not by Mr. Ricks.

5 Q You're not aware of that?

6 A I was not made aware of that until recently.

7 Q You didn't get the CAD report or the, the -- from the
8 computer?

9 A That was not, at that time, provided.

10 Q When was it provided to you, investigator?

11 A I think your counsel was able to obtain that.

12 Q The CAD report?

13 A Your -- yes.

14 Q No, no, the CAD report, the incident report from the
15 9-1-1 people.

16 A Repeat your question please.

17 Q I'll give you a copy of the form. The incident
18 detailed report.

19 THE COURT REPORTER: Did you call it a CAD report?

20 MS. ZMROCZEK: CAD, C-A-D. I'm sorry.

21 THE COURT REPORTER: C-A-D?

22 MS. ZMROCZEK: Computer Automated Report.

23 A Repeat your question please?

24 Q When was the call incident detail report provided to
25 you?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 A I am not sure.

2 Q Okay. You were able to know that Mr. Goodwin called
3 9-1-1, right?

4 A I called 9-1-1 or the dispatch, gave them the case
5 number, and asked them to provide me with the number of the
6 person that called 9-1-1, and I was only given one name and
7 one number.

8 Q But you, you now learned that there were three calls
9 made to 9-1-1?

10 A I know of Mr. Goodwin's call and I learned later that
11 apparently Mr. Ricks called but never indicated who he was
12 and never indicated, until later, exactly what he was
13 calling about or where the police should go.

14 Q Okay. How many murders have you investigated,
15 Investigator Johnson?

16 A As a primary investigator?

17 Q Yes.

18 A Probably about ten.

19 Q How many?

20 A About ten probably.

21 Q Ten.

22 Is it important to have the 9-1-1 calls to know what
23 was said?

24 A It can be, yes.

25 Q When did you -- how long does 9-1-1 keep those calls?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

- 1 A Actual recording, I think 90 days.
- 2 Q When did you request this?
- 3 A I'm not sure that I actually requested the recording of
- 4 the 9-1-1.
- 5 Q Is that something you leave up to the solicitor's
- 6 office?
- 7 A No, because I spoke to the person that called 9-1-1
- 8 directly and that they did not give me any information. I
- 9 apparently did not request it.
- 10 Q But you didn't investigate to see if anybody else
- 11 called?
- 12 A When I called dispatch, that's all they told me they
- 13 had.
- 14 Q When you---
- 15 A That was what I was told.
- 16 Q When did you receive the incident detail report?
- 17 Can you look in your notes?
- 18 A I'm not sure.
- 19 Q You just don't know.
- 20 Did you ever receive it?
- 21 A I'm not sure that I did.
- 22 Q Okay. Cause the incident detail reports give the, the
- 23 number of the person that called, right?
- 24 A Uh-huh. (Affirmative).
- 25 Q So, right there on the incident detail report, it, it

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 has the, a male caller and it has his number?

2 SOLICITOR SAMPSON: Your Honor, she -- I don't think
3 she's given him that. She's asking him what's on it.

4 THE WITNESS: One moment.

5 (Pause.)

6 A When I contacted dispatch on the day of the incident,
7 the dispatcher said that the 9-1-1 call that they received
8 came from (803)467-7521, which is, I believe, different than
9 the one that's given here. I was given the name Tommy
10 Goodwin that resided at [REDACTED].
11 I made contact with that Mr. Goodwin and asked him what he
12 saw. He indicated that he saw nothing. I was never made
13 aware of this until recently.

14 Q And you've never been made aware of the incident
15 report?

16 A That you just showed me, that's correct.

17 Q Okay. Is that something that you would typically want
18 to make sure that you follow-up in, in an investigation?

19 A At the time that I requested who called 9-1-1, that is
20 all that I was given. I was not aware of that. I was not
21 made aware of that.

22 Q Okay. I'm gonna show you what's been previously marked
23 as Defense Exhibit 16, 17, 18, 19, and 20 and ask if you've
24 seen these pictures.

25 A You're asking me if I've seen these pictures?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 Q Sure.

2 A I have not.

3 Q You haven't seen them?

4 A I'm not -- I wasn't sure what that was. Yes, I have
5 seen these.

6 MS. ZMROCZEK: Okay. Your Honor, at this time we would
7 move these into evidence, Defendant's I think 16 through 20.

8 THE COURT: No objection?

9 SOLICITOR SAMPSON: No objection, Your Honor.

10 THE COURT: They're admitted.

11 (WHEREUPON, State's Exhibit Nos. 16 through 20 were
12 received into evidence at this time.)

13 Q And those -- what's -- those pictures, they depict the
14 undershirt that Mr. Pauling had on, correct?

15 A That's correct.

16 Q And they're close-up pictures of the impact of where
17 the bullets went in, right?

18 A That would appear so, yes.

19 Q It would appear that way, right?

20 A Yes.

21 Q And it would appear that there's some, some material
22 around there that could of been tested for soot or, or, or
23 for gun powder residue, right?

24 A Could of been.

25 Q Didn't do that, did we?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 A It doesn't appear to the naked eye to be any stippling
2 or any type of gun powder there.

3 Q Right.

4 That's why we send things to the lab to be tested,
5 right?

6 A If one chooses to do so, yes.

7 Q Exactly.

8 You had two other phones in evidence.

9 You didn't do any testing on them?

10 A Nope.

11 Q Recently they were tested?

12 A When you say tested, you mean downloaded?

13 Q Downloaded.

14 A Yes.

15 Q Pardon me. Downloaded.

16 A Correct.

17 Q And that information helps corroborate or disprove what
18 people actually say like oh, I didn't talk to so or so or I
19 did so and so.

20 So, that information is, is, is stuff that we can
21 actually look at to see if it was done or not done, right?

22 A In this particular investigation, what I was concerned
23 about was what happened from the time that Channen Ricks got
24 to the apartment up unto the time that he shot Thomas
25 Pauling in the back. At that particular time, the

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 conversations between and after, maybe after, the
2 conversations that occurred before did not seem to be
3 important to me at that time.

4 Q Okay. And you keep saying when, when Channen Ricks
5 shot and -- shot Mr. Pauling in the back.

6 A Correct.

7 Q Is it your testimony that it's never appropriate to
8 shoot somebody in the back?

9 A That is your words. Not mine.

10 Q That's why I asked you the question.

11 Is it, is it, is it ever appropriate to shoot someone
12 in the back?

13 A I can't answer that.

14 Q Okay. If you're being attacked and someone's calling
15 out someone's name that had just attacked you---

16 A There are way too many variables in that question and
17 that scenario---

18 Q Okay.

19 A ---for me to give you an answer to that.

20 Q So, here's -- let me ask the question this way.

21 In your opinion, the reason you took out the murder
22 charge was because of the location of the bullet wounds,
23 correct?

24 A That is not correct.

25 Q Okay. So---

Kerry Johnson - Cross-examination
By MS. Zmroczek

1 A I took out the murder warrant because Channen Ricks
2 shot Thomas Pauling. Whether he was shot in the back or in
3 the foot or in the head, it didn't matter. What mattered
4 was that he was deceased from gunshot wounds caused by
5 Channen Ricks. That's why the warrant was issued.

6 Q Okay. And you're familiar with self-defense?

7 A Sure.

8 Q You're familiar with involuntary manslaughter?

9 A (Witness nods affirmatively.)

10 Q You have, you have to answer.

11 A Yes.

12 Q You're familiar with voluntary manslaughter?

13 A Yes.

14 Q And you're familiar with murder?

15 A Yes.

16 Q And the information that you relied on to take the
17 warrant out for murder was Thomas Pauling was shot by
18 Channen Ricks?

19 A Correct.

20 Q Okay. And your detailed investigation led you to
21 believe that that was done with malice aforethought and not
22 self-defense?

23 A That is correct.

24 Q And that's based on what evidence?

25 A Channen Ricks, like any other citizen, has a duty to

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 retreat if he's not in his home. Channen Ricks was inside
2 of Apartment [REDACTED] at the time of the confrontation occurred.
3 Thomas Pauling, Travis Tucker fled the scene. Channen Ricks
4 had an ample opportunity to get in his vehicle and leave.
5 Channen Ricks had ample opportunity to call the police for
6 help but he did not. Instead, he just happened to take the
7 same path and ended up right behind Thomas Pauling and
8 discharged at least four rounds in his direction hitting him
9 three times.

10 Q Okay. You said three---

11 A Ending his life.

12 Q You said right behind Thomas Pauling, right?

13 A Right.

14 Q Where is he on the video behind Thomas Pauling?

15 A He's not on the video.

16 Q Okay.

17 A You can't see him on the video.

18 Q Can't see him behind him?

19 A No, but the placement of the wounds on Thomas Pauling
20 would indicate that he'd have to be standing behind him.

21 Q But we just can't see him on the video?

22 A Don't need the video to know that.

23 Q Okay. But if he had been standing behind him,
24 certainly he would of been on video, right?

25 A As the video showed, Thomas Pauling walked out of the

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 range of the video. So, the shooting obviously occurred out
2 of the range of the video. So, the actual shooting was not
3 caught on video. So, Thomas not being caught on video and
4 Channen was not on video does not negate the fact that it,
5 that it occurred.

6 Q Okay. And you said that he has a duty to retreat,
7 right?

8 A Unless he's in his home, yes.

9 Q All right. So, you're not familiar with the statute
10 that's codified that says if he's in a place that he has the
11 right to be and he's attacked that he can meet force with
12 force?

13 You're not familiar with that statute?

14 A Well, ma'am, there's quite a few people in here with
15 more letters behind their names than I do. So, maybe I'm
16 not familiar with that.

17 Q All right.

18 A I do know that Channen Ricks had numerous opportunities
19 to seek the help of police and his only excuse that I heard
20 throughout his testimony was that he didn't have good cell
21 service. But throughout this entire testimony, he had great
22 cell service talking to five or six women right before this
23 shooting happened. So, why he didn't have good cell service
24 at the time he needed the police is beyond me because the
25 person that called 9-1-1 that night had great cell service

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 and they had no trouble calling 9-1-1.

2 Q And, and he had no trouble calling 9-1-1 either, did
3 he?

4 A who?

5 Q Mr. Ricks.

6 A After he shot Thomas Pauling and left the scene, he did
7 call 9-1-1.

8 Q Right. And Mr. or Investigator Johnson, let me ask you
9 this.

10 Kiara Pelzer, she told you that he -- and that he lived
11 there sometimes, right?

12 A Lived there, visited there, that's all.

13 Q Had, had the right to be there.

14 Yes or no?

15 A He came and went without her having a problem with it.
16 It -- depending on how they were getting along at the time,
17 yes.

18 Q Okay. And you testified that he had ample time to call
19 9-1-1?

20 A I would say he did, yes.

21 Q How long did this incident, from the time that he got
22 to the apartment in your detailed and thorough
23 investigation, how long did -- how much time passed from the
24 time he got to the apartment to the time Thomas, Thomas
25 Pauling was shot?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 How much time passed?

2 A Well, we're really not a hundred percent sure what time
3 he got to the apartment. That can not be verified. We know
4 that the crime scene was set up at 5:44. We know, by the
5 report, that the officer was dispatched at 5:33. The amount
6 of time that happened between when he got to the apartment
7 and Thomas Pauling got shot can not be exactly known.

8 Q Right.

9 Can it be guessed accurately?

10 Could it be a reasonable accurate guess?

11 A Once Thomas Pauling and Travis Tucker left the
12 apartment, there was no danger to Channen Ricks. Channen
13 Ricks should of got in his car and, A, left or he should of
14 called the police like anybody else would have. But instead
15 he chose to go looking.

16 Q In your opinion?

17 A That's my opinion and he found, he found Thomas
18 Pauling.

19 Q In your opinion?

20 A The facts would lead to show that, yes.

21 Q And your crime scene investigators took pictures.
22 Showing you what's Defense 21.

23 They took that picture, right?

24 A Correct.

25 Q And that picture, Investigator Johnson, I'm gonna show

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 you on State's 8, was taken from here looking this way,
2 correct?

3 A Show me again.

4 Q From this place -- this angle looking this way?

5 A I believe that would be correct.

6 Q Okay. That would be correct.

7 what, what do you see on the ground right there at the
8 very corner of that picture, which would be somewhere in, in
9 this area?

10 A I'm not sure what you mean.

11 Q Okay.

12 A Can you point to what you're talking about?

13 Q Sure.

14 what do you see right here?

15 A I do not know what that is.

16 Q You don't think that that looks like a bunch of shoe
17 prints?

18 A It is hard to say.

19 Q It's hard to say, in your opinion?

20 A If I that -- had a magnifying glass and blew that up, I
21 might be more sure of that but right here it appears to be
22 the heel of a shoe.

23 Q Okay. Let me ask you this.

24 was it misty that morning?

25 Had it rained?

Kerry Johnson - Cross-examination
By MS. Zmroczek

1 A From what I know, it may of rained right after the
2 incident. I'm not sure if it was raining during -- no, I
3 think it was raining during the incident.

4 Q Okay. So, I'm again pointing to Defense 21.

5 So, if you had a magnifying glass or if you were a
6 crime scene investigator, you're trained to look for things
7 like the shoe imprints, right?

8 A Right.

9 Q Okay. So, so, all of these, all of this disturbed
10 stuff, sand, mud, dirt, whatever, would of been something
11 that your crime scene investigator -- I mean there's a
12 reason they took this picture, right?

13 A They take pictures from all angles. I'm not sure---

14 Q Okay.

15 A ---why he took that picture, that particular picture.

16 Q Okay.

17 A Was there -- I'm not sure what that point was there.

18 Q Okay. The point is---

19 A What were you asking?

20 Q The point is, Mr. Johnson, Investigator Johnson, is
21 that if right here where that picture was taken, facing
22 this -- right here where this picture was taken, from this
23 angle, facing this way, could be indicative of a struggle
24 had it been investigated, right?

25 A I don't agree with that.

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 Q All right.

2 A I'm not sure that's -- it's a parking lot where people
3 live. People come and go to work. I mean that could be
4 anybody's footprints.

5 Q It could---

6 A We don't know who, who they belong to.

7 Q It could be, right, but, but, but we -- they can
8 also -- you can also compare the victim's shoes to --
9 should -- to footprints found at the scene, correct?

10 A You---

11 Q Is that, is that something that's Richland County's
12 possible -- capable of doing?

13 A Keep in mind this is an apartment complex parking lot.
14 There's probably hundreds, if not thousands, of footprints
15 out there. What -- somebody would have to specifically know
16 that something occurred at that particular corner or
17 location in order to investigate that.

18 Q And that particular corner is kind of in a path along
19 where those little pink markers indicate the shell casings
20 were, right?

21 A What that picture shows is that sometimes, at some
22 point, somebody walked there.

23 Q Okay.

24 A I don't see torn clothing. I don't see debris. I
25 don't see blood or teeth or hair or anything that would

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 indicate a struggle.

2 Q Okay. So, when people are walking, at some point, they
3 can also kick around evidence, right?

4 A If the crime scene had not yet been secured, yes.

5 Q Okay. And they can -- sometimes evidence can be moved
6 before you get there, right?

7 A That, that is possible.

8 Q And sometimes evidence -- you heard the testimony.
9 You've been sitting in here that, for example, in the
10 apartment, it was being cleaned up before anybody got in
11 there.

12 Isn't that right?

13 A I'm not aware of that.

14 Q Okay. And you are aware that this happened sometime
15 before 5:25. As you indicate, Mr. Ricks is leaving and
16 putting, you know, whatever it is that you choose to see in
17 his clothing, right?

18 A Right.

19 Q Okay. And so, we know that from 5:25 until somebody
20 got there -- at what time did you say they arrived?

21 A According to the report, the first officer arrived at
22 about 5:48.

23 Q Okay. So, during that time, you don't know what
24 evidence was moved either by people, cars, or weather,
25 correct?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 A We have no way of knowing that.

2 Q No way of knowing that.

3 No way of knowing that there wasn't a struggle out
4 there that day, that morning, correct?

5 A When I spoke to Channen Ricks on the telephone and in
6 person, he never once said anything about a struggle. So---

7 Q That---

8 A ---there was nothing for me to go back and investigate.
9 Had he told me that, at that time, of course, I would of
10 gone back and investigated that particular area but he
11 failed to mention that there had been a---

12 Q Okay.

13 A ---separate struggle out in the parking lot.

14 Q Let's talk about that.

15 A I can't investigate something that I'm not aware of.

16 Q Let's talk about that for a moment.

17 When he called you on the phone, he was, you said, your
18 words, upset, crying, emotional, correct?

19 A Correct.

20 Q And you didn't read him his rights at that time?

21 He wasn't in custody, right?

22 A It's called a noncustodial question, yes.

23 Q Right.

24 You were just asking him a question and he was
25 extremely upset?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 A Yes.

2 Q Okay. So, then you bring him in and he tells you he
3 doesn't want to talk?

4 A He says that he wanted to talk but not without his
5 attorney.

6 Q Okay. So, then any statement he did or didn't make at
7 that point doesn't matter cause he doesn't have an attorney,
8 right?

9 A Once we read him his rights, he agreed to answer
10 questions. He signed the advice of rights form waiving his
11 right to an attorney.

12 Q Okay.

13 A It was only -- please allow me to finish. It was only
14 after he was read the warrant that he got upset and said
15 that he did not want to talk anymore without an attorney.

16 Q So, prior to him being read the warrant, he made a
17 little bit -- he made a little bit of a statement?

18 A Mainly he was saying repeatedly I'm not a murderer. I
19 did not bring a gun to the house.

20 Q Okay.

21 A And then he did a lot of crying. Had to blow his nose
22 I believe correctly. He -- a lot of crying. He was very
23 lethargic. Very tired. There was not a lot of
24 conversation.

25 Q Travis Tucker has not told you the truth in this case,

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 correct?

2 A In regards to what?

3 Q Bringing the gun.

4 A In regards to the gun, he's lied, yes.

5 Q Okay. You provided a case summary report in, in
6 discovery, correct?

7 A Correct.

8 Q And when you, when you do, you do those reports, you
9 provide them to attorneys, you do that, you want them to be
10 fair, a fair---

11 A Fair?

12 Q A fair accounting of your knowledge.

13 You want them to be accurate?

14 A To the---

15 Q Correct?

16 A ---best of my knowledge, yes.

17 Q And you want them to be complete, correct?

18 A Correct.

19 Q And, and that's a complete case summary, right?

20 A Are you referring to my investigative follow-up?

21 Q I guess 17 page or some, some -- with all the little
22 pictures and, and things like that. Yes, investigative
23 follow-up.

24 A Well, in order for it to be complete, I would have to
25 go back and type up the stuff that I've just recently

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 learned in the past couple of days and add that to it.

2 Q Okay. well---

3 A So, in that instance, it is not complete.

4 Q And, and I'm not trying to trick you. I promise.

5 I'll -- but it was complete as far as what you had, your

6 mention of what it was provided, correct?

7 A Let me look at my last page please. To the best of my

8 knowledge, yes, it was.

9 Q Okay. I mean minus the stuff that you've learned
10 recently?

11 A And there's likely some other things I missed that---

12 Q Okay.

13 A ---I'm sure we're about to hear about.

14 Q Kiara Pelzer's statement, that's on Page 2 of your
15 investigative report, right?

16 A Yes.

17 Q And this is based on your talkings with her, all the
18 incident reports, all the, all the things that you've
19 reviewed, this is what you come up with your investigative
20 follow-up, correct?

21 A Sergeant Maldonado interviewed her. I did not. I
22 spoke to her briefly at her home.

23 Q Okay. And you also sent her a picture of Channen's
24 clothes, right?

25 A Correct.

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 Q So, it was based on that and then did you review
2 Investigator Frost who was the responding officer's report?

3 A He's a deputy. He's not an investigator.

4 Q All right. Did you review Deputy Frost's report?

5 A Sure.

6 Q Sure.

7 THE COURT REPORTER: Croft? Croft?

8 THE WITNESS: F-R-O-S-T?

9 THE COURT REPORTER: Frost.

10 Q You reviewed his report too, right?

11 A Yes.

12 Q Okay. And so, Investigator Johnson, on Page 2 of your
13 investigative follow-up, it says Kiara said that she heard
14 one gunshot while she was inside the apartment with Channen
15 but could not tell who fired the shot.

16 A On Page 2?

17 Q Yes, sir.

18 A Due however -- the statement she gave---

19 Q You have to answer the question I just asked you.

20 A That's correct.

21 Q Okay.

22 A However, in the statement made to Sergeant Maldonado,
23 on Page 3, he asked did you see Channen shoot the gun at
24 Travis as Travis ran by the room, and she answered I did see
25 Channen shoot but I wasn't sure what he was shooting at.

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 Q Did you do this follow-up before or after that
2 interview?

3 A After.

4 Q And you still put in your report she could not tell who
5 fired the shot?

6 A That's correct.

7 Q And that would be consistent with the report that the
8 responding officer gave you that said she -- Kiara also
9 stated the gun was fired in her apartment. She was
10 frantically trying to open the bedroom door and it was
11 locked. She did not know who shot it.

12 A What page was that?

13 Q Page -- it's a summary supplement of Investigator
14 Frost.

15 A That's correct.

16 Q Okay. Brianna Pelzer who was in the bedroom, right?

17 A Correct. In the bedroom.

18 Q Did not see any shots inside the house?

19 A I'd have to go back and look at her statement to be a
20 hundred percent sure. If you'll give me a moment please.

21 (Pause.)

22 A As she was relating to Investigator Gall the chain of
23 events, she said Channen, Channen then turned around and
24 walked out the door and that is when I heard one gunshot.

25 Q Xaviera Richardson specifically, and in your report it

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 noted that Investigator Golf did not ask him any questions
2 about the shooting that occurred after the first gunshot.

3 A That's correct.

4 Q But he was in the room and heard a gunshot, right?

5 A I think he testified he was hiding up underneath the
6 covers at the time.

7 Q Right.

8 And -- but you also followed up in your, in your
9 investigative follow-up, correct?

10 A Right.

11 Q Okay. Investigator Johnson, how many times did you ask
12 Channen's mom for his cell phone number?

13 A I know, when I went to the house that day, I asked if
14 she knew how I could get in touch with him and she said no.
15 She'd have him call me.

16 Q Did you ask her if she knew how to get in touch with
17 him or did you ask her if she knew where he was?

18 A Both.

19 Q But, in your report, you just asked if she -- you just
20 noted that you asked if she knew where he was?

21 A Okay.

22 Q Correct?

23 Am I not misstating it?

24 A Correct.

25 Q Okay. So, so, in your report, you didn't say I asked

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 him for his phone number and she didn't give it to me?

2 A No, I didn't put that.

3 Q Okay. How many times did you ask Kiara Pelzer to give
4 you his cell phone number?

5 A He had called me from another number. So, I was trying
6 to get in touch with him on that number. I don't remember
7 asking Kiara about the number. I don't recall that.

8 Q Okay. Was anybody that was interviewed asked for his
9 cell phone number when it was learned that he was involved?

10 A I'm not sure because I did not interview those
11 individually but I don't see it on the statements. We were,
12 however, in conversation with each other on the cell phone.

13 Q That -- and, Investigator Johnson, let me ask you this.
14 Does Richland County have the ability to run cell phone
15 numbers?

16 Do you have the ability to do like inquiries?

17 A We do.

18 Q And so you---

19 A When you say, when you say run them, what do you mean?

20 Q Well, like, for example, if you -- with Mr. Gibson, did
21 you have his name or his cell phone number?

22 A Mr. Gibson?

23 Q I mean the, the person who called 9-1-1 that you spoke
24 with.

25 A Goodwin.

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 Q Goodwin.

2 A Yeah.

3 Q Did you have his name or his telephone number?

4 A I was given his name and his telephone number by the
5 dispatcher.

6 Q Okay. And in your -- you're familiar with Mr. Ricks,
7 right?

8 A I am.

9 Q So, you can type in to some computer in Richland County
10 in y'all's investigative network and get information from
11 him, right?

12 A Such as address, old phone numbers, associates, such as
13 that, yes.

14 Q Did you do that in this case?

15 A Not sure that I did.

16 Q Okay.

17 A I knew where he lived. I knew who his mother was from
18 past investigations.

19 Q Okay.

20 A Cell phone numbers change sometimes week-to-week
21 depending upon the person.

22 Q Okay.

23 A what I did know is that he called me from one number
24 that I tried to call him back on.

25 Q I know you found---

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 A And he knew, when I spoke to him, that he needed to
2 come turn himself in to me and he knew, that when I asked
3 him how many times did you shoot, I don't think it was any
4 question that he was wanted for murder at that point.

5 Q Right.

6 At that point, you had already decided that we was
7 charged with murder because he didn't tell you that he was
8 in a fight?

9 A He was being charged with murder based on the
10 statements given by the witnesses, based on the fact that
11 they saw him leave the house. He was the last one seen with
12 the gun, and that shortly after he left the house, they
13 heard gunshots and Thomas Pauling was dead. It was not
14 probably caused. That was probable cause --

15 Q Okay.

16 A -- to get the warrant, which I put in front of a judge
17 and the judge agreed and signed the warrant.

18 Q Why did you take pictures of his mouth?

19 A Because he said that he was injured in a fight that I
20 knew had occurred when he first got there. It was only
21 fair.

22 Q You knew that---

23 A It was only fair that I take pictures of his injuries
24 also.

25 Q Okay. And you knew that that occurred -- those

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 injuries occurred when he first got there?

2 A That's what he said, yes.

3 Q Okay.

4 A He said he got jumped.

5 Q He said he got jumped?

6 A When he first got there, yes.

7 Q When did he tell you that?

8 A When we were in the office.

9 Q But we don't have any written statement informing of
10 that?

11 A He wouldn't let me get -- take a statement.

12 Q Okay. Let me ask you this.

13 Does Richland County have the ability to -- why -- is
14 there a, is there a specific policy that says that you're
15 not allowed to record interviews?

16 A There is.

17 Q Why is that?

18 A Ma'am, that's somebody you have to ask that's my boss.
19 I don't know.

20 Q Okay. Let me ask you this.

21 If we had a, a recording, we would know exactly what
22 was asked and what was said, right?

23 A If you had a recording of that particular conversation,
24 of course, yes, you would know.

25 Q Okay. But we don't have that?

Kerry Johnson - Cross-examination
By Ms. Zmroczek

1 A We don't have that.

2 Q Because that's your boss's policy or somebody else
3 other than---

4 A You're welcome to call Sheriff Lott and ask him.

5 Q Surprising he won't take my calls.

6 But they record all incoming calls to Richland County
7 Sheriff's Department, correct?

8 A Correct.

9 Q They record polygraphs?

10 A Correct.

11 Q Video and audio?

12 A Correct.

13 Q Right?

14 But not statements?

15 A That's correct.

16 Q Okay. And this investigative follow-up was provided by
17 you?

18 A Yes.

19 Q And it says Kiara did not see who shot, could not tell
20 who fired the shot, right, your investigative report?

21 A Correct.

22 MS. ZMROCZEK: I have no further questions. Thank you.

23 THE COURT: Any redirect?

24 SOLICITOR SAMPSON: Just very briefly, Your Honor.

25 REDIRECT EXAMINATION

Kerry Johnson - Redirect examination
By Solicitor Sampson

1 BY SOLICITOR SAMPSON:

2 Q Mr. -- Investigator Johnson, you just talked about your
3 report.

4 when you're talking about what Kiara said, is that
5 your, your interpretation of what she said or what she
6 actually said?

7 A My interpretation.

8 Q Which is better, your interpretation or her statement?

9 A Her statement.

10 Q And, in her statement, did she say that Channen Ricks
11 shot the gun?

12 A She did.

13 Q Okay. As far as looking at the grassy knoll or
14 whatever this grass spot was, did anybody ever tell you,
15 prior to yesterday, that there was an altercation in the
16 grassy area?

17 A Never heard that until yesterday.

18 Q And she talked about what your investigators did.

19 Is it your job to tell CSI what to do or do they
20 determine what to do once they're there?

21 A We work in concert. Of course, we can discuss certain
22 things but all that was done prior to me even being notified
23 of the murder.

24 Q Exactly.

25 You didn't get notified until 7:27, correct?

Kerry Johnson - Redirect examination
By Solicitor Sampson

1 A Correct.

2 Q Some of those photographs reflect, reflect the time of
3 6:50, correct?

4 A Correct.

5 Q So, that would of gone on before you ever even got
6 involved?

7 A That is correct.

8 Q So, there was no way to tell you -- to tell them -- for
9 you to tell them to go photograph the shoe print, correct?

10 A I wouldn't even know that shoe print needed to be
11 photographed over in that particular section because it was
12 no where near the casings or the body.

13 Q So, part of your job is having to rely on what other
14 people tell you?

15 A Correct.

16 Q Same for the 9-1-1 calls.

17 Is there any way for you to go to 9-1-1 and make them
18 do anything?

19 A No.

20 Q So, you called 9-1-1 and the information they provided
21 you was Tommy Goodwin, correct?

22 A That's correct.

23 Q And his phone number, correct?

24 A Correct.

25 Q You've now seen this incident report?

Kerry Johnson - Redirect examination
By Solicitor Sampson

1 A That I was not aware of existed.

2 Q And Ms. Zmroczek showed you copies. I'm gonna show you
3 mine. She had you look over page -- the first couple of
4 pages. So, I'm gonna stand up here because it's easier.

5 On Page 1, who is listed as -- I'm gonna have to look
6 at---

7 A Tommy Goodwin.

8 Q As the caller?

9 A Correct.

10 Q You can look through that entire 17 pages of documents.
11 Anywhere on there do you see Channen Ricks' name?

12 A Well, for the sake of brevity, it's not on here because
13 we were never aware, until recently, that he made a phone
14 call.

15 Q And even when she discussed with you, on Page 3 of this
16 report, where it says they received a call from an
17 additional male caller stating someone shot at him---

18 A There was no name.

19 Q There's no name. There's a phone number. 316-1412.

20 A Uh-huh. (Affirmative).

21 Q Did anybody tell you that was Channen Ricks' cell phone
22 number?

23 A No.

24 Q So, even if you had gotten this information the day it
25 was made, would you have known it pertained to Channen

Kerry Johnson - Redirect examination
By Solicitor Sampson

1 Ricks?

2 A No.

3 Q And Ms. Zmroczek talked about self-defense a little bit
4 and what you know about it.

5 You also have told her that you know about Channen
6 Ricks and we've talked about he has a record, correct?

7 A Correct.

8 Q Strong armed robbery?

9 A Yes.

10 Q Is he allowed to have a gun?

11 A No, absolutely not. He's prohibited by State Law.

12 Q And he---

13 A State and Federal Law.

14 Q I'm sorry.

15 By State and Federal Law?

16 A Yes.

17 Q Can he get a concealed weapons permit?

18 A No, he can not.

19 Q Does he have one?

20 A He does not.

21 Q So, it would be illegal for him to have a gun in his
22 possession?

23 A It would. To be walking through an apartment complex
24 in hisself is against the law. To have one in his
25 possession at anytime is against the law because of his

Kerry Johnson - Recross examination
By Ms. Zmroczek

1 record.

2 Q Could he have been charged with unlawful carrying of a
3 pistol?

4 A And also unlawful possession by person convicted of a
5 felon or a violent crime.

6 SOLICITOR SAMPSON: No further questions, Your Honor.

7 MS. ZMROCZEK: Briefly follow-up if I may?

8 THE COURT: Yes, ma'am.

9 RE CROSS EXAMINATION

10 BY MS. ZMROCZEK:

11 Q You didn't charge him with those crimes, right?

12 A I did not.

13 Q And you know that he only got that gun after it was
14 brandished in his apartment or in the apartment, which he
15 had a place to be, when it was brandished by Travis Pauling?

16 No doubt about that?

17 A I know that, during the fight, he ended up with the gun
18 and that he did not bring a gun to the fight.

19 Q Perfect.

20 You are -- is it also your testimony that you have no
21 access to 9-1-1 calls when you're, when you're the lead
22 investigator that's gonna come and testify to a jury
23 eventually about a case?

24 You don't have access to those?

25 A I can put in a request for the records.

Kerry Johnson - Recross examination
By Ms. Zmroczek

1 Q On March 27th when you called your cell phone from
2 Channen Ricks' cell phone, on March 27th, two days after
3 the incident, you knew his phone number, right?

4 A At that time, yes.

5 Q Did you ever contact 9-1-1 and say hey, I know y'all
6 are busy, let me shoot you an email, can you just check up
7 and see if there's anything from this cell phone number?

8 A I had no idea that any call had been made from that
9 number to 9-1-1.

10 Q And then when you heard the tape, you heard it, it was
11 ten minutes after the call, right?

12 Were you in here for when it was played?

13 A I've heard it but I don't think I was in here for when
14 it was played.

15 Q Okay. Then you have -- that's because yesterday you
16 were talking with Kiara, right?

17 A Beg your pardon?

18 Q Yesterday, when it was being played, were you talking
19 with Kiara?

20 A I was talking to Kiara?

21 Q For whatever reason, you weren't in here when it was
22 played yesterday?

23 A I think I was in here, yes, I was. I heard it.

24 Q Okay. So, you heard when he said we don't know what
25 was said the first time he called, right?

Kerry Johnson - Recross examination
By Ms. Zmroczek

1 A I don't know.

2 Q But you heard---

3 A I was not aware, I was not aware that Channen Ricks
4 made a 9-1-1 call until recently.

5 Q But you heard what was said immediately after, right?

6 A Yes, he said he was hiding in an abandoned building on
7 Bluff Road, which we determined not to be true.

8 Q And that's all you heard?

9 You didn't hear that people jumped me in my house---

10 A I heard that.

11 Q ---and fired at him?

12 A I heard that.

13 Q So, you did hear that, that too?

14 A Sure.

15 Q Let me ask you this.

16 In your 30 years of investigations, when people go
17 through a traumatic experience, do they sometimes leave
18 facts out?

19 A Sure.

20 Q And, lastly, if Channen Ricks---

21 A I thought it was interesting that he left the fact out
22 that he shot somebody in the back. He left that out. I
23 guess it was a traumatic experience that he left that out.
24 That was -- seemed to be pretty important, don't you think?

25 Q And are you finished?

Kerry Johnson - Recross examination
By Ms. Zmroczek

1 A I got a lot but go ahead.

2 Q Okay. Channen Ricks had a physical injury, right?

3 A The busted lip?

4 Q Yes.

5 A Yeah, I guess you can call that a physical injury, yes.

6 Q Okay. Have you arrested anybody for domestic violence
7 or criminal domestic violence because a woman had shown you
8 a busted lip?

9 A I---

10 SOLICITOR SAMPSON: Your Honor, I haven't object but,
11 at this point, I think she's gone beyond the scope of
12 cross -- I mean redirect into irrelevant territory.

13 MS. ZMROCZEK: I withdraw that question, Your Honor.

14 THE COURT: You may step down.

15 THE WITNESS: Thank you.

16 THE COURT: How many more witnesses does the State
17 have?

18 SOLICITOR SAMPSON: Your Honor, we have one, and just
19 to go into that, it's Doctor Durso. She is currently, at
20 this minute, doing an autopsy. We don't believe she's gonna
21 be available to come this afternoon. So, she said she can
22 be here at nine o'clock in the morning. This hearing, we
23 have together -- she is only subpoenaed actually for next
24 week. This trial is on the docket for next week.

25 We -- since Ms. Zmroczek filed this motion on the

1 18th of this month, of July, we tried to get this together
2 in time to do it this week. Doctor Durso had made
3 arrangements so that she could be available for testimony
4 next week but inquired to work this week. And so, she is
5 actually doing autopsies as we speak but that would be our
6 only witness.

7 (WHEREUPON, a short recess was taken at this time.)

8 THE COURT: You may call your next witness.

9 SOLICITOR SAMPSON: Your Honor, as we stated, Doctor
10 Durso is unavailable. We, as we told you in chambers, we
11 went to call her. We called her. The only thing she could
12 do was come right that minute. However, we had already let
13 everyone go.

14 She had an appointment she had to be at with her
15 children at 3:00, Justin?

16 SOLICITOR WILLIAMS: 2:30.

17 SOLICITOR SAMPSON: She couldn't be here until 2:00.
18 We told everybody -- at that point, we let everybody go. We
19 could not get everybody back together. She said she can be
20 here at nine o'clock in the morning is all we've got.

21 THE COURT: And so, when did you learn that she had an
22 appointment with her children this afternoon?

23 SOLICITOR SAMPSON: When you asked us to go speak with
24 her after we left chambers. That's when he called and we
25 before -- we're telling you her responses were to text --

1 were texts. We could not get her on the phone either prior
2 to starting this morning and we didn't take a -- the only
3 break we took, and I'll try to remember in my head, Your
4 Honor, we couldn't get her either. I know we were texting
5 her. We told her to -- particularly to call us when she got
6 out of the autopsy. Her response was she's in an autopsy.
7 She couldn't call us.

8 And so, the only time we were able to speak with her on
9 the phone was after we met with Your Honor in chambers and
10 we did go call her, and that is when she told us that she
11 had the appointment this afternoon. She never told us that
12 prior to.

13 THE COURT: And she's been under subpoena all week?

14 SOLICITOR SAMPSON: No, ma'am.

15 THE COURT: When -- she been under subpoena at all?

16 SOLICITOR SAMPSON: She is under subpoena for next week
17 because this case is on the trial docket for next week. She
18 was on vacation last week. When he found out we could
19 actually put this case on the docket, we could not get her
20 subpoenaed because she was not physically here to serve her
21 with a subpoena.

22 THE COURT: And so, last week, when I was told that she
23 wasn't gonna be available until Tuesday of this week to be
24 able to testify, that was based on what?

25 SOLICITOR SAMPSON: She called and told us that the --

1 I was getting this information from another -- from a third
2 party that she would be available. She was not in the
3 office but that she could be available. She then made
4 her -- we were trying to get her CV. We were able to get
5 that. But I have not -- was not able to speak with her
6 myself.

7 On Monday, she again -- no, ma'am, she was back in the
8 office by Monday and stated she'd be here Tuesday and she
9 was here yesterday.

10 THE COURT: And so, why was this case on the trial
11 roster this week?

12 SOLICITOR SAMPSON: This case was placed on the trial
13 roster for April 8th -- I mean for August 8th April of
14 this year, on April 19th.

15 THE COURT: It was on the trial roster this week as, as
16 being -- a list of trials that I got, it's listed on the
17 trial roster for this week.

18 SOLICITOR SAMPSON: Right. I had to kind of give
19 you -- back up a minute.

20 In April, Ms. -- we had a hearing in front of Judge
21 Hood. He scheduled us for a date certain on August 8th.
22 On July 18th, Ms. Zmroczek filed a motion for this
23 immunity hearing. I was already scheduled for trial the
24 week of the 25th. So, this week was the soon as we could
25 place it on the docket to get it heard prior till the 8th.

1 That is how it got on the docket for this week.

2 THE COURT: And so, none of the witnesses who appeared,
3 they were all pulled together this week?

4 SOLICITOR SAMPSON: Yes, ma'am, the only one we served
5 an actual subpoena on, we served the apartment complex's
6 subpoena and Miss Pelzer a subpoena but we actually did that
7 Monday.

8 THE COURT: And so, when did the defense have notice
9 that there was gonna be a Castle Doctrine hearing -- that
10 this hearing was about to take place on Monday of this week?

11 SOLICITOR SAMPSON: We sent an email -- the trial
12 roster went out July 27th. It was giving her ten days
13 cause we have to send a docket out.

14 THE COURT: No, I mean that the hearing was gonna be
15 this week.

16 SOLICITOR SAMPSON: For sure?

17 THE COURT: Well, not for sure.

18 MS. ZMROCZEK: I received an email from Dave Willburg,
19 Your Honor, listing our case as third on this, on the roster
20 as an immunity hearing, and I continued to communicate with
21 the solicitor's office, and to find out about the first two
22 trials. I learned that those had pled, as well as the
23 third, the third trial, which was technically the fourth,
24 but, on the list, but I believe that's the plea that you
25 took Monday morning or Monday afternoon.

1 And so, I learned that on Wednesday, Your Honor, and,
2 at that point, I don't know what happened with the emails
3 about Monday morning. I, I don't know because I've sent
4 several trying to, to get some clarification on where I was
5 suppose to be because Judge Early had ordered -- I
6 understand that, that civil cases are below General
7 Sessions.

8 THE COURT: All right. The only, the only emails that
9 I have on my computer that was sent around Friday afternoon
10 about 3:30 or so. I got an email from the Attorney
11 General's Office in reference to a PCR for this week, and
12 that was -- that's the only communication I had about a
13 conflict while on this particular trial.

14 MS. ZMROCZEK: And I, and I certainly apologize, Your
15 Honor.

16 SOLICITOR SAMPSON: Yes, Your Honor.

17 MS. ZMROCZEK: I apologize for that. I can, I can
18 print those emails. I believe that they were sent between
19 Ms. Sampson and your clerk but I, I -- I'll check. I mean I
20 can print them, but to answer your question, Your Honor, I
21 was on notice of the Wednesday prior to last Monday is the,
22 and---

23 THE COURT REPORTER: Prior to?

24 MS. ZMROCZEK: Prior to this, prior to this week,
25 correct.

1 SOLICITOR SAMPSON: The 27th I believe is the date.

2 THE COURT: And the only thing I heard about wednesday
3 or Thursday was the conflict about the doctor wouldn't be
4 available until Tuesday to testify.

5 SOLICITOR SAMPSON: Correct. And I, I knew that we had
6 an issue with the -- her at the timing of Tuesday. I didn't
7 have any idea there was gonna be an issue about the timing
8 on Wednesday, and, in all honesty, I thought we would put
9 her up yesterday afternoon. And then when I found out, on
10 Monday, that we were gonna have to take a long break, she --
11 we still brought her up here, especially when the break got
12 shortened, and we thought we could put her up yesterday
13 afternoon and she was here.

14 THE COURT: And nobody said a word to me yesterday
15 about putting her up yesterday because she wouldn't be
16 available today. The only, the only request I had was to,
17 to go late in order to put up Miss Pelzer. I didn't hear a
18 word about the physician.

19 SOLICITOR SAMPSON: And, and I will say this. Once you
20 said that we couldn't put up Pelzer, we would of switched
21 them out at that -- we literally had to go talk to Doctor
22 Durso at that point. I didn't realize there was this huge
23 problem with Wednesday until after that. She was here.

24 So, we left and went and talked to her, and then she
25 said she would try to get -- to be here Tuesday, tomorrow,

1 this morning. She thought that she could. It would be
2 whether she got anymore bodies, literally what she said, but
3 she thought she could be here in the morning. It would just
4 be later in the morning.

5 We had other witnesses. So, it wasn't an issue as far
6 as we knew because she was saying, as long as I don't get
7 any other bodies, I will be here. This morning she said I
8 got another body. I am going into the autopsy but I will do
9 what I can to be there in the, in the morning or this
10 afternoon, and the next email we got---

11 THE COURT: well, obviously, she knew she had an
12 appointment at three o'clock or 3:30 and she wasn't gonna be
13 here anyway.

14 SOLICITOR SAMPSON: She never told us about the
15 appointment in the afternoon. The next text we got was I
16 can be there Monday -- Thursday morning at 9:00, and then
17 that's when -- and we literally were here. So, it wasn't
18 like I could of called her.

19 THE COURT: And nobody asked to take a break either.

20 SOLICITOR SAMPSON: To be honest, Your Honor, I
21 literally was just trying to respond as I could.

22 THE COURT: we will come back on Monday at -- everybody
23 needs to be present at eleven o'clock. I may be finished
24 with jury qualifications. I may not be. But everybody
25 needs to be in the courtroom, including the doctor.

1 I would also like for the parties, in lieu of their --
2 well, no. I do want the attorneys to prepare me a proposed
3 findings of fact to be submitted to my office Monday morning
4 in the trial format by 9:00AM. I'll be prepared to rule
5 after I hear the testimony on Monday, and I assume that the,
6 the doctor is the last witness for the State, and we're --
7 and I believe you indicated in chambers there would no -- be
8 no additional testimony from the defense?

9 MS. ZMROCZEK: That's correct, Your Honor.

10 SOLICITOR SAMPSON: That is correct. We -- she is our
11 last witness, Your Honor.

12 THE COURT: Anything else we need to take up before we
13 adjourn from the State?

14 SOLICITOR SAMPSON: Can I do the -- there is some
15 housekeeping matters I would like to do now or I can do them
16 Monday morning. I just figured, if I could do them now, if
17 that would be okay with Your Honor.

18 THE COURT: what kind of housekeeping matters?

19 SOLICITOR SAMPSON: There's the -- some evidence that
20 we need to just introduce. Some of it was by stipulation
21 and others we just never introduced it. We all referenced
22 it. I can do it if I need to but I mean I think I can just
23 get them in.

24 THE COURT: what numbers?

25 SOLICITOR SAMPSON: The exhibit we've all been using

1 and referred to that we actually have had everybody drawn on
2 and used, this is Exhibit 8 but it was never actually
3 introduced into evidence but we've all drawn on it, touched
4 it, and referenced it. I would ask to introduce it at this
5 time.

6 THE COURT: Any objection?

7 MS. ZMROCZEK: Without objection.

8 SOLICITOR SAMPSON: And---

9 THE COURT: Admitted.

10 (WHEREUPON, State's Exhibit No. 8 was received into
11 evidence at this time.)

12 SOLICITOR SAMPSON: The other one we addressed with
13 stipulations but we never put it on the record, State's
14 Exhibit 20 is the phone records that are just texts that
15 were provided by actually Ms. Zmroczek's -- the defense's
16 expert but it's State's Exhibit No. 20 and we stipulated
17 that they could come in but we never actually introduced
18 them into evidence. So, I would ask to introduce State's
19 Exhibit---

20 THE COURT: Is that separate and apart from Exhibits 9
21 through 12, the defendants?

22 SOLICITOR SAMPSON: Yes, ma'am.

23 MS. ZMROCZEK: What, Your Honor -- what it is, Your
24 Honor, is it is Defense Exhibit No. 10. I just put the
25 two -- I just put the time period that, you know, that

1 referred -- that -- the reason we're here for that time
2 period, the 24th and 25th, and those text messages are a
3 continuation of those. So, these were messages that were
4 prior. I didn't think that they had, you know, much
5 relevance to why we were here.

6 So, that's why I didn't move them in but, but they are
7 a part of Defense Exhibit 10, if you can look at it that
8 way. I mean they're just the, the rest of the records of
9 Exhibit, of Exhibit 10.

10 THE COURT: In other words, they're not, they're not
11 duplicates?

12 MS. ZMROCZEK: Correct.

13 SOLICITOR SAMPSON: No, ma'am.

14 MS. ZMROCZEK: They're not duplicates.

15 SOLICITOR SAMPSON: The only---

16 MS. ZMROCZEK: They have different dates.

17 SOLICITOR SAMPSON: The only thing that's a duplicate
18 is you have a DVD or CD with everything on it.

19 THE COURT: Yes.

20 MS. ZMROCZEK: Right.

21 THE COURT: So, that's State's Exhibit 20.

22 SOLICITOR SAMPSON: Yes, ma'am.

23 THE COURT: Any objection?

24 MS. ZMROCZEK: No objection, Your Honor.

25 THE COURT: It's admitted.

1 (WHEREUPON, State's Exhibit No. 20 was received into
2 evidence at this time.)

3 SOLICITOR SAMPSON: That -- the other exhibits that we
4 have that haven't been introduced will either not be or will
5 come in under Doctor Durso.

6 THE COURT: So, what I have here is Defense Exhibits 1
7 through 14 and then 16 through 23?

8 MS. ZMROCZEK: Yes, ma'am.

9 THE COURT: And then for the State, it's 1 through 5 --
10 1 through 7, now No. 8.

11 THE COURT REPORTER: I didn't -- six and seven I don't
12 have as in, Your Honor.

13 THE COURT: They were stipulated to.

14 THE COURT REPORTER: Okay. They're autopsy diagrams,
15 six and seven.

16 THE COURT: I have that they're stipulated to. So, it
17 may not of been discussed.

18 SOLICITOR SAMPSON: Either way, we're okay.

19 (WHEREUPON, State's Exhibit Nos. 6 and 7 were received
20 into evidence at this time.)

21 THE COURT: Eight, 10, 11 through 15, 17, 20, 21, 22,
22 26 through 29, 31 through 36, and then 37 through 50 and
23 then 37 through 50.

24 THE COURT REPORTER: Twenty-one through 50 are in. The
25 only exhibits the State doesn't have in are 9, 16, 18, and

1 19.

2 THE COURT: I'm sorry?

3 THE COURT REPORTER: The only exhibits the State has
4 not moved in is nine, State's 9, State's 16, State's 18, and
5 State's 19.

6 SOLICITOR SAMPSON: That's what I have.

7 THE COURT: Okay. Anything else?

8 MS. ZMROCZEK: And, Your Honor, just for clarification,
9 you said that you would, after hearing the doctor's
10 testimony, be in a position to, to rule so that I want to
11 make sure. I plan on being here for jury selection on
12 Monday because this case was set. If that -- do I -- am I
13 correct in doing that, in being here?

14 It's just out of an abundance of caution in case---

15 THE COURT: Well, you're gonna be here anyway.

16 MS. ZMROCZEK: Right. Exactly.

17 THE COURT: Yes. Yes.

18 MS. ZMROCZEK: Okay. Okay.

19 THE COURT: I'm not changing -- I, I have no idea what
20 the trial roster is for next week. So, you-all need to do
21 whatever you need to do to prepare for it. I haven't seen
22 the trial roster and I won't be doing the trial roster.
23 I'll just qualify the jury.

24 MS. ZMROCZEK: And that's the only thing. I'll be
25 here.

1 THE COURT: So, if y'all have any motions with respect
2 to the trial, you-all need to take that up with the chief
3 administrative judge, Judge McMahon.

4 SOLICITOR SAMPSON: And, Your Honor, just -- I just
5 want to clarify as far as what time. You said to have
6 either findings of fact by and I just didn't hear you.

7 You said 9:00?

8 THE COURT: 9:00.

9 SOLICITOR SAMPSON: 9:00 Monday or---

10 THE COURT: 9:00 Monday.

11 SOLICITOR SAMPSON: Do you want a proposed order as
12 well or just the findings?

13 THE COURT: Just the findings cause I'm gonna make an
14 oral ruling. I'm not doing a written order.

15 SOLICITOR SAMPSON: Thank you, Your Honor.

16 THE COURT: Anything else?

17 Any other questions?

18 SOLICITOR SAMPSON: Not from the State, Your Honor.

19 MS. ZMROCZEK: Nothing from the defense.

20 THE COURT: Then we'll see you-all on Monday morning.

21 MS. ZMROCZEK: Thank you.

22

23 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

24

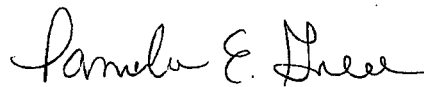
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 1st, 2nd, and 3rd days of May, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

May 13th, 2017



PAMELA E. GREEN, Court Reporter

State of South Carolina) In the Court of General Sessions
) Fifth Judicial Circuit
County of Richland) 2016-GS-40-2836

The State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 Channen Ricks,)
)
 Defendant.)
)
)

August 8, 2016
Columbia, South Carolina

B E F O R E:

The Honorable Alison Renee Lee, Judge

A P P E A R A N C E S:

April W. Sampson, Esquire, Assistant Solicitor
Justin T. Williams, Esquire, Assistant Solicitor
Attorneys for the State

Aimee J. Zmroczek, Esquire
Attorney for the Defendant

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

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Amy Durso

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E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>I.D.</u>	<u>Ev.</u>
S-18	Pathology Report		31
D-16	Photograph		41
D-17	Photograph		41
D-18	Photograph		41
D-19	Photograph		41
D-20	Photograph		41
D-24	DVD Label	4	
D-25	DVD of Jail Phone Call	4	
D-26	SLED Report	4	
C-5	Email		63

1 MONDAY, AUGUST 8, 2016

2 (COURT RESUMES AT 11:46 A.M.)

3 (COPY OF DVD LABEL MARKED AS DEFENDANT'S EXHIBIT
4 NUMBER 24 FOR IDENTIFICATION.)

5 (DVD OF JAIL PHONE CALL MARKED AS DEFENDANT'S EXHIBIT
6 NUMBER 25 FOR IDENTIFICATION.)

7 (SLED REPORT MARKED AS DEFENDANT'S EXHIBIT NUMBER 26
8 FOR IDENTIFICATION.)

9 THE COURT: Good morning.

10 MS. ZMROCZEK: Good morning.

11 MR. WILLIAMS: Good morning, Your Honor.

12 THE COURT: We are here this morning to continue with
13 the hearing on the Protection of Persons and Property Act.
14 Is there anything we need to take up before we get started?

15 MS. ZMROCZEK: There is, Your Honor.

16 THE COURT: Yes.

17 MS. ZMROCZEK: Your Honor, if I might move to exclude
18 all of Kiara Pelzer's testimony? The basis for that, Your
19 Honor, is this. Your Honor is very aware of the issues I
20 that I have had with discovery. On Tuesday -- what I've
21 marked as Defendant's 24 is a color copy of the disc that
22 you ordered the state to provide over to me. If I may hand
23 that up, Your Honor, dealing with jail phone calls if you
24 recall.

25 THE COURT: Okay.

1 MS. ZMROCZEK: Your Honor, on this disc were a
2 selection of calls between March 27, 2014, and June 3,
3 2014, and, and they weren't all of the calls. They were
4 one, two, three, four, five, eighteen calls. And, and they
5 were at that time, Your Honor, I understand moving to
6 impeach, trying to impeach Mr. Ricks. Of course I
7 objected. I believe that you told them that they were not
8 allowed to do that. And correct me if I'm wrong, Your
9 Honor, but it was my understanding on Tuesday you said if
10 you have anything else that is discoverable, provide it to
11 Ms. Zmroczek. That was my understanding.

12 Your Honor, on Thursday I had left town but received
13 an email that there were six CDs of jail phone calls. On
14 Friday I received fourteen more. Twenty CDs of jail calls,
15 Your Honor, twenty:, all of my client's conversations with
16 Kiara Ricks, conversations with everybody. I had my
17 investigate -- I had a public defender pick them up from
18 the office because I was out of town. I had my
19 investigator drive down to the conference and bring me
20 these so I could start listening to them. There's no way I
21 could listen to all of them.

22 However, there is one in particular, Your Honor, that
23 I did listen and it's Defendant's 25, and I can play it for
24 the court, or I can give you a summary. The court can
25 certainly listen for itself but, Your Honor, this call was

1 made on March 25, 2015. It was a conversation between my
2 client, Channen Ricks, and Kiara Pelzer, who testified.
3 Your Honor, the importance of this call is beginning at
4 1336 on this call. Channen says: So, tell me that's what
5 you did; you wanted me to come back to hurt me.

6 They have a conversation about how she acknowledges
7 that she invited him there and that she wasn't trying to
8 get him hurt so much as pay him back. And her exact words,
9 Your Honor were: I got even; I got even.

10 Your Honor, at this time I would like to move this CD
11 into -- if, if the court's not included to exclude her
12 testimony for this late discovery violation -- I don't know
13 how many other phone calls she says things that, that were
14 contradicted to what she testified.

15 The biggest issue in, I think, in this -- the two
16 biggest issues from her testimony, Your Honor, were that he
17 wasn't invited or, or she -- he -- she didn't know he was
18 coming and then who shot in the ceiling. But this phone
19 call material, Your Honor, is the complete opposite of what
20 she said.

21 Again, there are twenty CDs here, and I certainly have
22 tried to, to get through them, but I haven't gotten through
23 them all. I imagine there are probably more statements
24 that are in opposition to what she testified and possibly
25 what other people testified to. I, I, I don't know. But

1 from what I've started to listen to, Your Honor, it
2 certainly seems like *Brady*, Rule 5, *Kyles* information on
3 there.

4 I apologize for speaking rapidly. I'm just extremely
5 frustrated to get an email on Thursday when they knew I was
6 out of town telling me that there were six discs and then
7 there will be a few more on Friday, and it turns out that
8 there are fourteen. Twenty total discs of phone calls.

9 THE COURT: And as I recall, what occurred was there
10 was an email which is a court's exhibit indicating that any
11 -- I think it was from the jail to April Sampson or to
12 someone in the solicitor's office about the phone call,
13 about the recording of the phone call, as I recall, that
14 says that they had provided all of the calls of Mr. Ricks
15 while he was incarcerated up to July 2016, I believe is
16 what it says. I think it was Court's Exhibit 4.

17 MS. ZMROCZEK: I have a copy of that email, Your
18 Honor, and what it says is, what the email says is:

19 Per our conversation, I would like to confirm
20 that on 5/16/2016 did -- Lieutenant Freely did
21 download phone calls made by Channen Ricks for
22 his attorney.

23 THE COURT: And I believe what you had told me was
24 that they had said that they didn't have any because they
25 only kept them back for a year, then erased them.

1 MS. ZMROCZEK: No, no. What they, what they told me,
2 Your Honor, was they only provided me with a year. So,
3 that would cover six of the CDs. So, I had, had one year
4 from July -- from May 16, 2016, to May -- and it was
5 actually a little bit after May 16, 2015. I'm not sure if
6 we made that email a court exhibit, Your Honor, but if I
7 may approach, I believe this is it.

8 (A PAUSE.)

9 THE COURT: No, it was not made a court's exhibit. I
10 have a copy of it.

11 MS. ZMROCZEK: Of course my frustration, Your Honor,
12 was that instead of calling me and asking what I had or
13 simply providing me what they had, Your Honor, they emailed
14 the jail, which...

15 THE COURT: Well, I think what I indicated was that to
16 the extent that it was in the possession of the state,
17 meaning the solicitor's office, that discovery requires
18 that they turn over what they had in their possession,
19 whether -- regardless of whether it's produced by the
20 third-party or not. Then I think I indicated that
21 subpoenas could be sent to those individuals, but it was
22 still the state's responsibility, the solicitor's office's
23 responsibility to turn over anything that they have in
24 their possession, regardless of whether or not there were
25 subpoenas issued to request the information separately, and

1 I think that's probably where they came from.

2 MS. ZMROCZEK: I believe that was your ruling, Your
3 Honor, and if I may? I'm not sure if the court is aware,
4 but if I may educate the court a little bit? The
5 solicitor's office actually has real-time access to these
6 phone calls. > They don't have to go through the jail to
7 download them; they can download them. They have real-time
8 login access. They can download these phone calls any
9 time. So, they've had access to each and every one of
10 these phone calls each and every day.

11 And, Your Honor, as evidenced by the disc that they --
12 said revised phone calls, what it shows is they were
13 downloaded by Campbell Streeter. Mr. Streeter, I'm sure
14 you're familiar with, is an investigator with the
15 solicitor's office internally. So, they actually sit at
16 the computer at their own offices in the solicitor's office
17 and they can download, they can listen, they can do
18 whatever they want with those phone calls, which I have a
19 completely separate issue with that, but today's not the
20 day for that problem. But, but my point, Your Honor, is
21 that they've had access, and somebody went through these
22 jail calls and selected just these few that they handed me
23 on Tuesday, but they've had access to all of them for two
24 and a half years.

25 It's not the first discovery issue I've had in this

1 case or, or with this office. I tried to address it with
2 Dan Goldberg, who advised me that my accusations were
3 improper and if I thought there was a problem, that I
4 needed to raise the issue with the court, which is now what
5 I'm doing. So, for those reasons, Your Honor, we would ask
6 that either her testimony be excluded or that -- and in the
7 alternative Exhibit, Defendant's Exhibit 25, which is the
8 jail phone call where she, she, Kiara Pelzer, states she
9 didn't invite him over there to get him hurt but to get
10 even with him, be allowed and to go to her credibility and
11 her testimony, Your Honor.

12 THE COURT: Ms. Sampson.

13 MS. SAMPSON: Your Honor, I'm only going to address a
14 couple of things, but I don't think this is the proper
15 forum for the particular problems that she has.

16 As far the jail calls that I gave her, I gave those to
17 her in court, and those were the only ones that I have ever
18 listened to or intended to use. Because she stated that
19 she did not have all these jails calls, that the jail had
20 not provided those to her, out of an abundance of caution I
21 had those downloaded and provided them to her. I don't
22 even know what are on those calls.

23 What she just stated is not exactly accurate. I can
24 listen to them if -- someone in my office can listen to
25 them, or I can listen to them. Campbell Streater doesn't

1 listen to those. That's the ID number we use in order to
2 get into the system. They are owned and operated by the
3 jail. Even I have to get permission to listen to those. I
4 haven't listened to all of them.

5 I told her in the email that I sent her on Thursday
6 that there were going to be a bunch of them and that they
7 were voluminous, and I would leave some of them outside,
8 but it was going to take hours to download all of those,
9 and that's what happened.

10 They weren't used in this hearing. I understand she
11 may have some call that she just told the court that has
12 Kiara Pelzer on it. If she wants to introduce that, I
13 don't have any -- I don't understand why in this particular
14 forum that was ---

15 THE COURT: But there's a larger issue here, and to
16 say that this isn't the forum to address it is really,
17 really disingenuous. We're talking about a criminal case
18 in which there's been a request for discovery, much like in
19 civil cases, that each party has a responsibility to turn
20 over the information that's in their possession or
21 reasonably within their possession.

22 Apparently the state's been aware of the existence of
23 those calls. To the extent that you, yourself, wanted to
24 use a few of them last week indicates that there were
25 multiple phone calls during the time period that he's been

1 incarcerated, which I guess is since 2014 since this
2 incident occurred. So, we're talking about almost two
3 years' worth of phone calls. I understand that's a lot of
4 information to listen to, but I also know that frequently
5 the state will use those phone calls as evidence in a case,
6 and to the extent that you wanted to use some of those
7 phone calls, they should have been provided.

8 Now, it was my understanding this case is on the
9 roster for today. So, I don't understand how two days or
10 three days before the trial you can come up with
11 information and turn it over, which I suspect probably
12 wouldn't even have been turned over had we not had the
13 hearing last week and there was some discrepancy about what
14 was available, what was turned over. So, I do have a
15 problem saying that this is not the forum. This is the
16 perfect forum to be able to address those issues.

17 I do have -- the fact that they may not have been of
18 any importance to the state doesn't mean that they may not
19 be of importance to the defense, and that's why it was
20 turned over, and that's why they listened to them. I don't
21 know what's on them any more than you know what's on them.
22 But to the extent that they may be calls that affect the
23 credibility of the witnesses, which is also what you wanted
24 to use that information for, that hadn't been given to her
25 so that she would be able to discuss those issues, that's a

1 real problem. And that, and that speaks volumes about the
2 judicial system because the whole idea is to be able to get
3 the information, to be able to get the truth, and to be
4 able to present whatever information is needed for the jury
5 to be able to make a decision as to the guilt or the
6 innocence of a particular individual. And certainly when
7 it involves a murder, that's serious, serious information.
8 It should have been provided long before we got to this
9 particular point, and there is a problem with that, and I
10 have a problem with that.

11 Whether or not the information is truly impeachment
12 material, it certainly would -- could affect how I view her
13 testimony and whether or not there was reason for him to
14 believe that he was in fear besides what his own testimony
15 has been. Or, in other words, or even to support or
16 bolster his testimony that he would have been in fear and
17 whether that was a reasonable thing. That goes directly to
18 the issues that I have to decide. Anything else you need
19 to say?

20 MS. SAMPSON: The only thing I was going to say, the
21 only reason I said I did not feel this was the proper
22 forum, not that Your Honor could not make that decision,
23 but because they won't be played. That was all I meant is
24 that you had ruled we could not use them, and that's what I
25 meant by not the proper forum and that they did not come

1 in.

2 The only other thing I would add, Your Honor, is to
3 support what I was told and what the position of our office
4 has always been, and I will hand the court three cases:
5 *State vs. Kennerly*, *State vs. Knighton*, and *State vs.*
6 *Hughes*.

7 In all three of those cases, Your Honor, it talks
8 about under -- whether it's under *Brady*, *Kyles*, whichever
9 cases you want to address, that if there is proof that it
10 has been provided by another entity and that, therefore,
11 they had access or the knowledge about the information or
12 the problems or, or whatever it is that's being used, that
13 that could be considered enough. The cites are 336 South
14 Carolina 585 for *State vs. Hughes*; 334 South Carolina 125
15 for *State vs. Knighton*; and South Carolina -- sorry, 331
16 South Carolina 442 for *Kennerly*, and they all address the
17 issues of if these things were available and known to have
18 been given to the defense, whether it was by the state or
19 by another entity at the state's either authorization or
20 requested by the defense, that that was something to be
21 considered and, therefore, not necessarily prejudicial to
22 the defendant or not necessarily a violation.

23 Based on this case law, Your Honor, and I'm not
24 disputing what you just said, but that is the basis for why
25 I did what I did. I went to the people in my office who

1 know more than I do about these things. This was the case
2 law that I was handed, and that's why I went and got the
3 email from Lieutenant Freely to say that they had been
4 given to Ms. Zmroczek. And then when she stated at the
5 bench that she didn't have but a certain amount, that's the
6 reason I made sure she had the rest of them. Had I, had I
7 had any idea or had I been told to do differently by the
8 superiors in my office, I would have done it.

9 THE COURT: The email, and I believe I read this in
10 the record last week, the email says:

11 Per our conversation, I would like to confirm
12 that on May 16, 2016, I, Lieutenant Freely, did
13 download phone calls made by Channen Ricks for
14 his current incarceration until 5/16 of 2016. If
15 you have any further questions, please feel free
16 to contact me.

17 With all due respect, this email didn't tell me squat.
18 It's a simply a statement by somebody. So, without,
19 without some additional duty and responsibility to say --
20 tell me what is the dates that you have. What information
21 did you send.

22 MS. SAMPSON: If I can -- and this is the only copy I
23 have. She also provided me the subpoena that she received
24 from Ms. Zmroczek that has the dates that she was
25 requesting it on. So, that -- those two things came

1 together.

2 THE COURT: Well, let me see that.

3 MS. SAMPSON: And this is another -- this is the other
4 only copy that I have, and for the record I had that --
5 somebody just go print that for me from her because she
6 sent it again this morning. So, we had two.

7 THE COURT: And the subpoena without all the extra
8 written notes on it, the subpoena requests:

9 A copy of recordings of all phone calls made by
10 Channen Ricks throughout the entirety of his
11 incarceration at Alvin S. Glenn Detention Center.
12 Please send me the above-mentioned documents to
13 address P.O. Box.

14 And then there's an additional note that says:

15 As well as complete jail jacket. Also see below.
16 All jail phone calls, video visits, and complete
17 jail call from Travis Cornelius Tucker from 2014
18 to present. Please respond on or before May 25,
19 2016.

20 And the date and time for compliance is on or before
21 May 25, 2016. It is dated May 9th, and then the other
22 notes indicate that it was done on 5 -- I can't tell if
23 it's 5/16/2016, and then just his jail number is added so
24 that he could be identified.

25 Yes, ma'am.

1 MS. ZMROCZEK: Your Honor, as an officer of the court,
2 I mean, I can have my investigator, find one of them and
3 ask him to come and testify, but these are the four CDs of
4 jail phone calls that I've received. The court is
5 certainly welcome to look at them, they're certainly
6 welcome to look at them, but I'm telling you, and I would
7 -- if you want to look at them, I would encourage you
8 because what they go back is one year. These are the four
9 CDs that I received.

10 Just because I'm, I'm trying to do my best to do my
11 job doesn't give them -- it doesn't let them off the hook,
12 Your Honor. We're talking about due process. We're
13 talking about things that -- and it's disingenuous, Your
14 Honor, for them to say that they don't have somebody
15 sitting around listening to these jail phone calls,
16 especially right before trial because this is when they
17 always drop them on me. This has not been the first time
18 that I've run into this with this prosecutor or with this
19 office. I understand that whatever the office-wide policy
20 is to, you know -- instead of communicating with me and
21 say, hey, saw you got a subpoena. What did you receive?
22 Instead of -- so we don't have to duplicate discs. Instead
23 of doing that, they just go behind my back, and then they
24 try to get out of their job and they think that they're
25 covered, but they're not covered, Your Honor, because these

1 discs do not cover the fourteen discs that they gave me and
2 the information that they provided me on Tuesday.

3 Additionally, Your Honor, they've provided jail phone
4 calls from somebody named CD Cash. So, I had to listen to
5 forty-five minutes of jail phone calls on that CD that says
6 Channen Ricks that had nothing to do with this case. You
7 know, I don't know if it's just sloppy; I don't know if
8 it's lazy. I don't know what it is, Your Honor, but I do
9 know this. I know it's a violation of Channen Ricks's due
10 process rights, it's a violation of their ethical
11 obligations as prosecutors, and they, they just throw
12 around words like *Brady* and *Kyles* like they don't mean
13 anything those, and that's because they're never held to
14 that standard, and that's a completely separate issue but,
15 but it's not in this case, Your Honor, because I can tell
16 you and I can hand up the four CDs that I received, one
17 from Travis Tucker, three from Channen Ricks that date from
18 May 16, 2016, through May 16, 2015. That's what I was
19 provided.

20 But regardless of that, Your Honor, two and a half
21 weeks when we stood in front of Judge Hood where I did a
22 motion to compel and I included on -- attached to that
23 motion to compel all of my previous discovery requests, and
24 they stood before the court and they said we've given them
25 everything. We've given her everything that we have, and

1 we just know that that's just not a true statement, Your
2 Honor.

3 (A PAUSE.)

4 THE COURT: Anything further before I make my ruling?

5 MS. ZMROCZEK: Yes, Your Honor. Lastly, one thing
6 that Judge Hood ordered week before last was for 911 to
7 turn over to me when the state requested these 911 calls.
8 This -- we're not just talking about *Brady* and *Giglio*.
9 We're talking about due process rights, Your Honor. This
10 is a murder case. The letter that was provided -- and this
11 goes to the overall solicitor's attitude towards this case
12 in general. The letter that was provided to me -- and I
13 gave them a copy -- is dated April 17, 2014, which as Your
14 Honor is aware now is about five weeks prior to this crime
15 happening. They send this letter and there's an astrix at
16 the top, says:

17 Case fell between the cracks. Need whatever you
18 can supply. Thank you.

19 Now, Your Honor, besides the fact -- there's an email
20 that's also attached with it that's dated April 17, 2015,
21 but, but here's the point, Your Honor, is that besides the
22 fact the state told Judge Hood that they'd requested it
23 sometime in March or June -- or, excuse me, in May or June
24 of 2014, which we now know was just an incorrect statement,
25 Your Honor, we don't know what that first 9 -- you heard

1 the second 911 call when they called him back. We don't
2 even know what that first one said. And I understand that
3 these are more arguments for spoliation, but I think they
4 are to be considered within the conduct of the state.

5 Lastly, Your Honor, I received on Thursday the SLED
6 gunshot residue test that I've been asking for, and there
7 -- it was asked when this was requested to be tested, gunshot
8 residue on a victim, Your Honor, and it was requested on --
9 and the email says on date 7/12/2016. Analyst Whitney
10 Barry, who's here to testify, has a comment:

11 Justin Williams with the Richland County
12 solicitor's office called requesting the evidence
13 in this case be ready for an August 8th court
14 date. I explained to him we most likely won't be
15 able to accommodate that. We discussed the
16 meanings of positive or negative results on the
17 victim's hands.

18 Anyway, Your Honor, she's here to testify, since I now
19 have to call her in rebuttal, is that there was a, there
20 was a, a cylinder residue that is found in gunshot on the
21 victim's left palm.

22 Not only that, Your Honor, Judge Hood ordered that the
23 DNA from the fingernail scrapings be done. We still don't
24 have those results, Your Honor. All of those would be
25 indicative and corroborative of Mr. Ricks's story that

1 there was a fight outside over the gun, and, and the fact
2 that we don't have these I think the court just needs to be
3 aware of, of just the -- this case carries thirty years day
4 for day to life, and I know Your Honor knows that.

5 Not only that, but the victim's family owed -- is, is
6 -- they deserve to know what happened. It's not just about
7 my client's rights. It's about the victim's rights as
8 well, and the state doesn't take any of this seriously
9 because cases like this just fall between the cracks.
10 Thank you.

11 THE COURT: Anything further from the state?

12 MS. SAMPSON: Your Honor, this case is important to
13 everybody, and I think it this a misnomer, and I'm taking
14 it personal that she's saying that I don't take this case
15 seriously. I've been taking this case seriously since I've
16 had this case.

17 There were -- there was an issue with my clerk's -- my
18 paralegal's computer, and we addressed that in front of
19 Judge Hood as to that problem as to when the 911 was
20 requested. She already has the 911 calls.

21 As to Ms. Barry, who is here to testify, and as we
22 told her again in Judge Hood's hearing, that was sent to
23 them to test in June of 2014. SLED chose not to test it.
24 When we called them to determine why they didn't test it,
25 why they didn't send the kit back, whatever had happened

1 with it, that's when she got the response that she is
2 talking about from Justin Williams because at that point we
3 said you're going to need somebody from SLED to come here
4 and explain to a judge why you didn't test something that
5 was submitted to you two years ago. They then chose to
6 test it and you can -- Ms. Barry is here. They can ask her
7 whatever questions they want, but to sit here and say we
8 didn't take it seriously is offensive and that I have been
9 taking it very seriously.

10 THE COURT: Ms. Sampson, have you been on this case
11 from the very beginning?

12 MS. SAMPSON: I -- initially, no, I do not have it,
13 but I've been on it since ---

14 THE COURT: Who had it before you?

15 MS. SAMPSON: I'd have to go look at the computer,
16 Your Honor, but I want to say Nicole Simpson had it before
17 me, but I need to go look. I don't remember, to be honest.

18 THE COURT: And how did the August 8th trial date come
19 to pass?

20 MS. SAMPSON: Because Ms. Zmroczek in April of 2015 --
21 excuse me, April of 2016 stated that -- at that point, the
22 defendant had not had a bond hearing. She asked for a bond
23 hearing. At that point we had a bond hearing, and Judge
24 Hood scheduled it for a date certain instead and denied her
25 motion for a bond.

1 THE COURT: And at what particular point, did you take
2 over this case?

3 MS. SAMPSON: I know I had it from at least the time
4 that Ms. Zmroczek got it in November of 2014.

5 THE COURT: November of 2014?

6 MS. SAMPSON: I believe so, Your Honor. I would need
7 to check on the dates, but I don't ---

8 THE COURT: How does a case get -- well, at what
9 particular point do you -- and this is, I guess, just a
10 rhetorical question. At what particular point does it come
11 to your attention that evidence hasn't been processed and
12 steps aren't taken? I mean, I don't understand how SLED
13 gets to decide what they're going to process and what
14 they're not going to process. I can understand that they
15 may be behind, which is what I hear all the time, or that
16 they don't have enough personnel, or they'll get to it as
17 quickly as possible. But to decide that there is potential
18 evidentiary material that they have that they just decide
19 that they're not going to process, and how you can, how --
20 knowing that there is a trial date, that it goes forward
21 without it being processed.

22 I suspect that, had we not had the hearing last week,
23 it may not have been processed at all, or based upon what
24 you said. In July, like a month before the trial date or
25 June, two months before that, the trial date, they're just

1 now deciding, well, I guess maybe we ought to? I mean, how
2 does that provide due process for anybody? How does that
3 give the victim's family confidence that the system is
4 going to provide information that would be able to get to
5 the truth of what occurred?

6 There were no witness; you all agree that there were
7 no witnesses. There's no video. There were two people out
8 on the property, and nobody saw what happened. So, if
9 you're -- and so you have to rely upon the evidence from
10 the scene. And if it's not collected properly, if it's not
11 processed properly, if the results aren't -- if the
12 material isn't tested properly, the results aren't
13 recorded, how are you able to say with any, with any --
14 beyond a reasonable doubt that the defendant committed
15 murder as opposed to something else? And how am I supposed
16 to be able to make a decision as to whether or not he is
17 entitled to immunity from prosecution if I don't have all
18 the facts that would, that could potentially relate to what
19 went on?

20 I understand that these hearings are in essence mini
21 trials, but -- and I understand that if I were to deny
22 immunity, that he would have the opportunity to be able to
23 go to trial and you would have to prove your case, and he
24 would have the opportunity to raise self-defense, and the
25 jury would be able to consider all of it. But had we not

1 had this discussion that we've been having for the past
2 week, you know, we wouldn't know what the evidence is. No
3 one would be able to consider that evidence because it
4 wouldn't have been presented, it wouldn't be here, and
5 that's just, that's just not acceptable.

6 So, what I am going to do, I'm going to allow and
7 require that Ms. Pelzer retake the witness stand. I'm
8 going to require that the testing be completed by SLED and
9 a report generated. I'm going to give the parties an
10 opportunity to listen to all the jailhouse tapes, and we're
11 going to continue this hearing until such time as all those
12 things can come together.

13 The next time I'm in Richland County on general
14 sessions is in October: So, I'll be happy -- I think a
15 couple of weeks I'm supposed to be in Kershaw County. I
16 can switch with somebody and come to Richland County
17 instead of Kershaw County to be able to take up those
18 issues, but I'm not going to -- I'll be happy to hear the
19 testimony of the state's witness or the -- whichever
20 witness. The state's witness, I guess it was. The person
21 who performed the autopsy, I'll be happy to hear that today
22 so that that's preserved for the record, but I'm not
23 ruling. I'm not going to make any decisions about this
24 case until I hear the full story. I need the rest of it.

25 And I know, I know the attorneys on both sides of this

1 case. I can't say that it's behavior that -- I can't say
2 that either side takes this case lightly. Although there's
3 been discussion about, you know, that seemed to be personal
4 in nature, I think it's more indicative of the office, of
5 the solicitor's office. I think that -- let me say this.

6 I don't think that the cases that you presented
7 support your position. The cases clearly indicate that
8 Brady is not only exculpatory information, but Rule 5 also
9 talks about information that the solicitor's office would
10 use during the course of trial, or any information that
11 relates to the case or to impeachment.

12 Clearly to the extent that the state had available to
13 it the recordings that they wanted to use to impeach the
14 defendant during his testimony, that's information that
15 should have been produced and not just some of the
16 recordings. And the cases talk about it's the state's
17 responsibility to produce them regardless of what
18 governmental agency has possession of that information.
19 That would include the jail, and it's incumbent upon them,
20 whether they are specifically aware of particular
21 information or any information, and to the extent that the
22 solicitor's office was aware of the jailhouse -- the jail
23 phone calls, obviously they had some that they wanted to
24 use for impeachment purposes. That means all of them
25 should have been turned over.

1 And I think, I think the problem is that as you get --
2 and I'm not leaving out the defense at all, but I think
3 everybody gets caught up in trying to do their cases and
4 relying on other people to provide information when it's
5 really, it's really the duty of the individual to make sure
6 that all the information is exchanged. And whether that
7 means a reeducation of all the personnel, or whether that
8 means just your own personal I need to make sure I've
9 satisfied my duty and my requirements under *Brady* or under
10 Rule 5, especially in the reciprocal Rule 5, to provide
11 this information and make sure that everything is done.
12 And not to take for granted that somebody else has produced
13 it and not know exactly what's being produced, and so I'll
14 leave it at that.

15 I'll be happy to hear the testimony of the witness
16 today, but as it relates to the other testimony, we'll
17 continue until.

18 MS. SAMPSON: Your Honor, the only thing I -- I
19 totally understand your ruling. I just -- you said the
20 testing done by SLED. It is my understanding that the only
21 testing that needed to be done by SLED has been turned over
22 to Ms. Zmroczek. I turned it over, as well as she, she
23 subpoenaed Ms. Barry to be here. That was the gunshot
24 residue testing. The nail scraping testing is in the hands
25 of the Richland County Sheriff's Department.

1 THE COURT: Well.

2 MS. SAMPSON: I will get that done. I just wanted to
3 make the order clear that that's by Richland County.

4 THE COURT: Whatever governmental entity is providing
5 any testing on any evidence that has been collected,
6 processed in this case.

7 MS. SAMPSON: I just wanted to make that ---

8 THE COURT: Thank you. All of those, all of that
9 information needs to be provided and, I mean -- and it
10 needs to be made a priority. I'll put it that way. It
11 needs to go to the top of the list.

12 MS. SAMPSON: I can say this, Your Honor. To the best
13 -- we -- she asked about this on Friday, so I started
14 calling and emailing, trying to figure out why -- where it
15 was. It's being tested as we speak is my understanding,
16 the fingernail scrapings.

17 Now, I will say this. Some of this has come up
18 because as we've gotten closer, Ms. Zmroczek wanted certain
19 things tested. I just want to make sure if she comes back
20 and asks for something else to be tested, can we come
21 before Your Honor to get that taken ---

22 THE COURT: And why is she the one that's coming and
23 asking for it to be tested?

24 MS. SAMPSON: For example, she had asked for some
25 phones that we had already downloaded to be tested and

1 downloaded again. That, that's -- we had already done it.
2 She wanted it done again or done by her own person. Some
3 of the phones we did that with the -- Mr. -- Investigator
4 Johnson will have to answer that question why they chose
5 not to test those particular phones. We now have done
6 that. What I just, I just don't want there to be an issue
7 that comes up because now she's asked for us to do
8 something else and we're finally doing it, but that delays
9 the process.

10 MS. ZMROCZEK: Your Honor.

11 THE COURT: Yes.

12 MS. ZMROCZEK: I mean, I've been asking since I first
13 filed my *Brady* motion in November of 2014 and, and to say
14 that they downloaded the phones, yes, Your Honor, they
15 downloaded the phones after I made the motion in the, in
16 the, in the compel. So, it's frustrating to, to see, to
17 see, to hear this and my client -- and his mom couldn't
18 even be here today because this has so stressed her out,
19 and he's been sitting in jail for two years and two months.

20 THE COURT: Well.

21 MS. ZMROCZEK: Without a bond.

22 THE COURT: I ---

23 MS. ZMROCZEK: And he can't even make a bond. So, I
24 mean, the point is moot. The point is, is really moot, but
25 the family has to wait for a resolution to find out what

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1 happened. My client has to still sit in jail. My client's
2 family, who's been paying me every week, has to -- is still
3 -- you know, sit in jail and it's...

4 THE COURT: What I'm going to require after the
5 hearing is for you all to sit down together and go over all
6 of the discovery requests and make sure that everything
7 that has been requested has either been produced, tested,
8 or in the process of being tested, and to review all the
9 evidence to make sure that everyone has everything that is
10 out there on this particular matter.

11 So, with that I'm ready to go forward with it.

12 MR. WILLIAMS: The state calls Dr. Durso.

13 MS. SAMPSON: Before we get started, can we approach,
14 Your Honor?

15 (OFF-THE-RECORD BENCH CONFERENCE.)

16 AMY DURSO, BEING DULY SWORN,
17 TESTIFIES AS FOLLOWS:

18 CLERK OF COURT: Have a seat in the witness stand.
19 State your name for the record.

20 WITNESS: Amy Durso, D-u-r-s-o.

21 MS. ZMROCZEK: Your Honor, we stipulate to her, her
22 expertise for the purposes of this hearing as a forensic
23 pathologist.

24 THE COURT: Yes, sir.

25 MR. WILLIAMS: Thank you, Your Honor. Per the

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1 stipulation, the state moves to qualify Dr. Durso as an
2 expert in forensic pathology.

3 THE COURT: Without objection.

4 MR. WILLIAMS: Also, Your Honor, per stipulation, the
5 state wishes to enter Exhibit 18, Dr. Durso's autopsy
6 report into evidence.

7 MS. ZMROCZEK: Without objection, Your Honor.

8 MR. WILLIAMS: And, Your Honor, just for the record
9 the state has already entered Exhibits 6 and 7 per
10 stipulations. Those are the diagrams of the decedent.

11 MS. ZMROCZEK: Without objection.

12 THE COURT: So, entered into evidence today would be
13 State's Exhibits 6, 7, and 18?

14 MR. WILLIAMS: That's correct, Your Honor.

15 THE COURT: Then by stipulation, they are admitted.

16 MR. WILLIAMS: Thank you, Your Honor.

17 (PATHOLOGY REPORT MARKED INTO EVIDENCE AS STATE'S
18 EXHIBIT NUMBER 18. EXHIBITS 6 AND 7 ENTERED INTO EVIDENCE
19 AT EARLIER HEARING.)

20 DIRECT EXAMINATION BY MR. WILLIAMS:

21 Q. Dr. Durso, how many times was the victim shot?

22 A. Three times.

23 Q. And where was he shot, Dr. Durso?

24 A. There were three gunshot wounds to the back.

25 MR. WILLIAMS: Your Honor, may I approach? May I ask

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1 the witness to step off the stand to show you the diagrams
2 and State's Exhibit 6 and 7?

3 THE COURT: Yes. She needs to keep her voice up,
4 please, while she's testifying and face the court reporter.

5 BY MR. WILLIAMS:

6 Q. Dr. Durso, please identify to the court on State's
7 Exhibit 6 where the defendant was shot.

8 A. So, I labeled my gunshot wound entrances D, E, and F.
9 So, these are the three gunshot entrance wounds right here.

10 Q. Were there any exits wounds?

11 A. Well, there was an exit where immediately reentered
12 into this arm here, but -- to the right arm, but otherwise
13 recovered all three projectiles from the body.

14 Q. Okay. In your expert opinion, Dr. Durso, was the
15 decedent shot while his back was turned to the shooter?

16 A. Yes.

17 Q. Okay, and in your expert opinion, Dr. Durso, how far
18 was the victim from the shooter when he was shot?

19 A. So, the things we look for to determine distance are
20 soot and stippling. So, soot is within 6 inches from the
21 end of the gun, and stippling is the gunpowder that
22 actually scrapes the skin and that, you know, goes out from
23 18 to 24 inches, sometimes up to 3 feet depending on the
24 weapon. But in this case, I didn't see either of those.
25 So, unless the bullet passed through multiple layers of

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1 clothing, a wall, something along those lines, that it
2 would be within -- or it would be at least 18 inches away.

3 Q. How would you define multiple layers of clothing?

4 A. Like five or six layers of winter clothing. Like, it
5 takes a lot for clothing to block all of the soot.

6 Q. Thank you, ma'am. Were there any other wounds on the
7 decedent?

8 A. Not gunshot wounds. There were several abrasions that
9 kind of look like -- well, they were consistent with what I
10 see in bodies where they fall to the ground. Even natural
11 deaths, when you fall, you tend to get these kind of dried
12 looking abrasions on very protuberant surfaces of the body,
13 such as the knees, the elbows, the forehead.

14 Q. Could you point to those in this particular case?

15 A. Sure.

16 Q. And State's Exhibit 7 is behind you if you need it as
17 well.

18 A. Right. That's just the gunshot wounds, so this is a
19 little bit easier for me. So, there was some abrasions on
20 the forehead here, dried, red ones. On the right elbow up
21 here in the back of the left -- or, sorry, left elbow, left
22 arm, and a few -- two on the little finger on the left
23 hand, on the right hip here, and on both knees there are
24 abrasions.

25 Q. Were those wounds indicative of the decedent being

1 involved in a fight?

2 A. No, they're not specific to that at all, no.

3 Q. Okay.

4 MS. ZMROCZEK: I'm sorry. I didn't hear that.

5 A. No, they're not.

6 Q. In your expert opinion, what are those wounds
7 indicative of?

8 A. What we call a terminal fall. So, when someone is
9 dying, they don't stay standing up. They fall to the
10 ground.

11 Q. Okay. Is it also possible for those wounds to occur
12 by jumping through a window?

13 A. It's possible. The wound that would be more kind of
14 consistent with that especially -- there actually were some
15 lacerations also -- I didn't finish all the injuries, sorry
16 -- to the right hand, and they're to the palm of the hand.
17 So, again that's kind of consistent with putting your --
18 either falling or again and striking a hard object such as
19 a window, yes.

20 Q. And your opinions and testimony today, all of those
21 come from your expert experience as a forensic pathologist.

22 A. Yes.

23 Q. Right?

24 MR. WILLIAMS: All right, please answer any questions
25 from Ms. Zmroczek.

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1 MS. ZMROCZEK: You can have a seat, Doctor.

2 WITNESS: Sure.

3 CROSS-EXAMINATION BY MS. ZMROCZEK:

4 Q. Dr. Durso, you prepared a report in this case,
5 correct?

6 A. Yes, I did.

7 Q. When did you provide that report to the solicitor's
8 office?

9 A. The report, actually we send it to the coroner's
10 office. The coroner's office is who releases it to the
11 solicitor's office. It does not go through my office.

12 Q. Okay. Exhibits, State's Exhibits 6 and 7, were those
13 part of your report?

14 A. No. They're not included in the report. Those are
15 requested separately.

16 Q. And who requested those?

17 A. I don't -- I have a written request from you
18 requesting it, and oftentimes we give it to the solicitor's
19 office as requested as well. I don't remember.

20 Q. But the solicitor's office didn't request it in this
21 case, did they?

22 A. I honestly don't know.

23 Q. Okay. You received a subpoena from my office?

24 A. I did, yes.

25 Q. And, and that's when these were turned over?

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1 A. To you, yes, as far as I know.

2 Q. And that was done July 19th of 2016?

3 A. That they were faxed to you, yes.

4 Q. Dr. Durso, I want to talk about first in your report,
5 you do the final anatomical diagnosis, correct?

6 A. Yes.

7 Q. And in that report, you say every -- all three
8 entrance wounds were ---

9 A. Yes.

10 Q. --- were of an indeterminate range?

11 A. Right.

12 Q. You didn't put 18 to 24 inches there, did you?

13 A. I did not because I cannot say whether or not it went
14 through a wall or other clothing. So, I do not know. I
15 said if it does not go through that, based on the crime
16 scene, which I did I go to, that I cannot determine. But
17 if it doesn't go through that, then it would be at least 18
18 inches away.

19 Q. And how -- with your hands, can you hold up how far 18
20 inches away is?

21 A. It's about there.

22 Q. If you can do it -- all right, so -- and you're
23 gesturing with your hands approximately this far?

24 A. Yeah.

25 Q. Okay. So, that means that if some person has the gun

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1 in my left hand and the person is right here and the right
2 hand, that would, that would indicate how far the shot
3 would be, 18, whatever ---

4 A. Yes.

5 Q. --- 18.

6 A. 18 because you have ---

7 Q. Okay.

8 A. --- you take -- and that would be ---

9 Q. Could it be closer?

10 A. It depends if there was something between them.

11 Q. Okay. Could it be farther?

12 A. Yes.

13 Q. Could it depend on the environment and what's going on
14 at the time? If somebody is moving, if people are moving?

15 A. No. I mean, distance is distance, so.

16 Q. Okay. So, you talked about trajectory in your report,
17 correct?

18 A. Yes.

19 Q. And these trajectories were different, weren't they?

20 A. They were all back to front and upwards, but one was
21 right. Two are right to left and one was left to right.

22 Q. Okay, and actually the one that you identified as
23 gunshot wound number two.

24 A. Yes.

25 Q. Was minimal right to left?

1 A. Yes. That's correct.

2 Q. Okay, and then gunshot wound number three was upwards
3 left to right?

4 A. Yes.

5 Q. And that -- I believe that you, when you were pointing
6 out on the drawings, that you said it actually -- the
7 bullet actually exited and reentered?

8 A. Yes.

9 Q. That could be indicative of movement, couldn't it, of
10 a body?

11 A. Yes.

12 Q. Magic bullets don't generally just...

13 A. Well, no. I mean, it just, it, it went out in the
14 armpit and went back into the arm. You know, it was just
15 following its trajectory.

16 Q. Okay, and which leads me to my next question. Do they
17 teach y'all how to gauge trajectory of a bullet?

18 A. Yes.

19 Q. And do you, like, put little arrows and things like
20 that in during your autopsy?

21 A. No.

22 Q. How is it that -- can you tell us how far the bullet
23 traveled in the body?

24 A. Well, I could go back and measure the body. I mean,
25 whatever is the distance between his back and his right

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1 arm. I mean, I didn't -- we don't usually measure how long
2 it travels in the body because it's usually not very
3 relevant to anything.

4 Q. Certainly. If you are standing over someone and
5 shooting at them, what, what, what kind of trajectory would
6 you expect to see?

7 A. Depends which way they're facing. I mean, trajectory
8 is basically -- we, we see at autopsy as someone standing
9 in anatomical position, you know, which is standing
10 straight up with your palms facing forward. People
11 typically aren't standing like that when they're shot. So
12 -- but that's how we -- just for descriptive purposes so we
13 can go back and say which direction the bullet was
14 traveling and if the person was in that position. I can't
15 tell you if the victim was bent over, leaning backwards.
16 I'm, I'm not able to tell you that. I can tell you what
17 direction the bullet went in the body laying flat.

18 Q. And so, and so it's hard to -- so, you have
19 limitations on -- like you say, they're bending over,
20 standing up?

21 A. Correct.

22 Q. Turning, twisting because you don't know where
23 everybody is. You just know ---

24 A. Right.

25 Q. --- the direction?

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1 A. I can tell you between the gun and the person, but I
2 can't tell you what -- where the direction of the gun or
3 the person, their specific positions, no.

4 Q. When, when you received Mr. Pauling's body, was he
5 clothed?

6 A. I believe he was. I don't actually have that piece of
7 paper with me that tells me if we collected clothing there
8 at the, at the autopsy or not. I forgot to bring them with
9 me.

10 Q. I'm going to hand you Defendant's 16 through 20 and
11 ask ---

12 A. Okay.

13 Q. --- if you -- if those -- if you recognizes those
14 pictures as being the clothing on the victim.

15 A. I wouldn't remember specifically ---

16 Q. Okay.

17 A. --- the clothing, to be honest. I've done many cases.
18 I would not remember one from the other. We document it on
19 a evidence sheet for transfer of custody.

20 Q. Okay. So, if these pictures were taken from your
21 evidence transfer sheet, you wouldn't have any reason to
22 doubt that, would you?

23 A. I would not.

24 Q. Okay.

25 MS. ZMROCZEK: Your Honor, at this time just for the

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1 purposes of this hearing, we would move Defendant's 16
2 through 20 in.

3 THE COURT: Any objection?

4 MR. WILLIAMS: Without objection, Your Honor.

5 THE COURT: It's admitted.

6 (PHOTOGRAPHS MARKED INDIVIDUALLY INTO EVIDENCE AS
7 DEFENDANT'S EXHIBITS 16, 17, 18, 19, 20.)

8 BY MS. ZMROCZEK:

9 Q. 16 through 20 show different views of the undershirt
10 that Mr. Pauling was wearing. Would you agree with me?

11 A. It does look like an undershirt, yes. It does look
12 like an undershirt.

13 Q. There are lots of things that scientifically you can
14 tell from this type of evidence, correct?

15 A. Like you said, I'm not really trained to evaluate the
16 closing.

17 Q. There's a reason that clothing is collected, though,
18 right?

19 A. Yes. Yes. It's transferred over so they can do
20 further testing for soot and other things that tell you
21 distance, yes.

22 Q. So, there can be soot from the guns on, on clothing,
23 correct?

24 A. Yes.

25 Q. Did you run a blood-alcohol in this -- did you run a

1 toxicology report on Mr. Pauling?

2 A. Yes. Toxicology was sent on Mr. Pauling, yes.

3 Q. Can you tell the court what the results of the
4 toxicology were?

5 A. Yes. We tested his -- actually, the fluid within the
6 eye for an alcohol level, which was .123%. We also tested
7 blood from the right chest cavity, and the ethanol level in
8 that was .10%. They're usually slightly different between
9 the eye and the blood. We also tested -- also the testing
10 of the blood from the right chest cavity, it was positive
11 for tetrahydrocannabinol, and was ---

12 Q. And what does that stand for?

13 A. That's the active ingredient in marijuana, and that
14 was 10 milli -- 10 micrograms per liter, 11
15 hydroxytetrahydrocannabinol, and 11
16 carboxy-tetrahydrocannabinol, which are metabolites of
17 tetrahydrocannabinol.

18 Q. And what does that mean in, in layman's terms?

19 A. He had been using marijuana.

20 Q. For a long period of time?

21 A. I can't tell you how long. It depends. Some people
22 clear faster than others. He had used it recently, I can
23 tell you that.

24 Q. Do y'all have specific tests that you run for drugs
25 such as molly?